

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - - - -

Adam P. Hall, :

Plaintiff, :

vs. :

Case No. 2:08CV518

OhioHealth : Judge Watson

Corporation, Doctors

Hospital, et al., :

Defendants. :

- - - - -

DEPOSITION OF ADAM P. HALL, D.O.

- - - - -

Taken at Littler Mendelson  
21 East State Street, Ste. 1600  
Columbus, OH 43215  
May 18, 2009, 10:14 a.m.

- - - - -

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

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By Marc D. Mezibov, Esq.

ON BEHALF OF DEFENDANTS:

Littler Mendelson

21 East State Street, Ste. 1600

Columbus, OH 43215

By Alison M. Day, Esq.

ALSO PRESENT:

Deborah Blackwell, D.O.

Monday Morning Session

May 18, 2009, 10:14 a.m.

- - - - -

S T I P U L A T I O N S

- - - - -

It is stipulated by counsel in attendance that the deposition of Adam P. Hall, D.O., the Plaintiff herein, called by the Defendants for cross-examination, may be taken at this time by the notary pursuant to notice and subsequent agreement of counsel that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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1 ADAM P. HALL, D.O.

2 being first duly sworn, testifies and says as  
3 follows:

4 CROSS-EXAMINATION

5 BY MS. DAY:

6 Q. Hi, Dr. Hall. My name is Alison Day.  
7 We met a moment ago. I'm an attorney. I  
8 represent your former employer, OhioHealth, in  
9 connection with the lawsuit that you've brought.  
10 I'm going to be taking your deposition today.

11 You've had your deposition taken  
12 before, correct?

13 A. Yes.

14 Q. Okay. So you're familiar with what  
15 we're doing, but I'll still go over a few ground  
16 rules to help things go a little bit more  
17 smoothly.

18 A. Sure.

19 Q. Tracy is a court reporter. She's going  
20 to be taking down my questions and your answers  
21 verbatim. Keeping that in mind, it's important  
22 that we don't talk over each other. Try to let me  
23 finish asking my question before you answer even  
24 if you can already tell what I'm asking. And I'll

1 try to let you finish your answer as well.

2 It's important that you answer verbally  
3 yes, no, or whatever your answer may be rather  
4 than nodding your head or saying uh-huh or huh-uh.  
5 I'll probably understand you, but it's difficult  
6 to tell on the transcript of what you meant by  
7 your answer. And it's difficult for Tracy to take  
8 down. Does that sound good?

9 A. Sure.

10 Q. If you need to take a break at any  
11 time, just let me know. I'm happy to take a  
12 break. I'll just ask that you answer the question  
13 that's on the table.

14 A. Okay.

15 Q. And if you ever don't understand one of  
16 my questions or you don't hear it or you just want  
17 me to repeat it or rephrase it in a different way,  
18 please let me know. Again, I'm happy to do that,  
19 but you have to let me know. Otherwise I'm going  
20 to assume that you heard my answer and believe  
21 that you understood it.

22 Does that sound fair?

23 A. Uh-huh.

24 Q. Yes?

1 A. Yes.

2 Q. See, you're already doing it.

3 A. Could we -- we had spoken earlier,  
4 maybe about every hour just take a break?

5 Q. Sure. You just let me know when you  
6 want to take a break.

7 A. Okay.

8 Q. I'm not real good at watching the time.  
9 And I have a tendency to go on. So don't feel  
10 like -- I'll try to watch it, but if we've been  
11 going a long time --

12 MR. MEZIBOV: I'll be the timekeeper.

13 Q. Just let me know. I'll just ask that  
14 you answer the question that we've got out there.

15 A. Okay.

16 Q. And Dr. Blackwell is going to be  
17 getting here at some point here this morning.

18 A. Okay.

19 Q. So we'll probably take a break when she  
20 gets here as well.

21 Are you currently under the influence  
22 of alcohol or any drug that would affect your  
23 ability to answer my questions truthfully?

24 A. No.



1 Q. Are you aware of any other reason that  
2 would affect your ability to answer my questions  
3 truthfully?

4 A. No.

5 Q. Can you state and spell your full legal  
6 name for the record?

7 A. My full legal name is Adam Patrick  
8 Hall, spelled A-D-A-M, P-A-T-R-I-C-K, H-A-L-L.

9 Q. What is your current residence?

10 A. My current residence is 4142 Charter  
11 Oak Way, Columbus 43219.

12 Q. Do you own or rent that residence?

13 A. I rent.

14 Q. How long have you lived there?

15 A. Since April of 2008.

16 Q. Who do you live with there?

17 A. I live by myself.

18 Q. Are you currently employed?

19 A. Yes.

20 Q. And where is that?

21 A. I work for Adam P. Hall, D.O.,  
22 Incorporated. It's my own business.

23 Q. Do you have an office?

24 A. Yes.

1 Q. And where is that?

2 A. It's down in Ironton, Ohio. The  
3 address is 407 South Third Street, Ironton 45638.

4 Q. Do you have an office in Columbus as  
5 well or just Ironton?

6 A. No, I have an office in Columbus as  
7 well that I just opened recently. And it is 7400  
8 Huntington Park Drive, Suite 50, Columbus 43230 I  
9 believe is the zip code there.

10 Q. And when did you start your own  
11 practice?

12 A. January of 2008.

13 Q. At that point, did you open both the  
14 Ironton and Columbus office?

15 A. No. I only had the one in Ironton.  
16 And then this year, opened the other one in  
17 Columbus.

18 Q. Okay. So how much time are you  
19 spending in Ironton versus Columbus?

20 A. Two days out of town. And then the  
21 rest of the time in Columbus.

22 Q. And what's the nature of your practice?

23 A. I do general practice with some pain  
24 management.

1 Q. Prior to starting your own practice,  
2 were you employed? I guess strike that.

3 After leaving Doctors, which I believe  
4 was April of 2006?

5 A. Yes.

6 Q. When was the first time you were  
7 employed after that?

8 A. May of 2006.

9 Q. What did you do in May?

10 A. I worked at an ER in Missouri for a  
11 little bit. And then I also, when I was back in  
12 Columbus, I would work between Dayton and here. I  
13 don't think I had many times when I was in  
14 Columbus. But most of it was in Dayton at the  
15 urgent care facility there.

16 Q. How long were you at the ER in  
17 Missouri?

18 A. Till November of 2006.

19 Q. So from May '06 to November '06, were  
20 you only working at the ER in Missouri, or were  
21 you also back in Columbus at times?

22 A. I was back in Columbus at times.

23 Q. So what was the nature of your  
24 employment in Missouri?

1 A. I did emergency room work.

2 Q. And for who?

3 A. The facility that I worked at was  
4 called Twin Rivers Regional.

5 Q. And was that full-time employment or  
6 part-time?

7 A. Part-time.

8 Q. When you were in Ohio during this May  
9 to November '06 period, you said you also did some  
10 work in Ohio?

11 A. Until August. From May to August.

12 Q. What happened in August?

13 A. That's when I entered into rehab. And  
14 so the month of August I didn't work at all at  
15 either place because I was in a 28-day inpatient  
16 rehabilitation facility.

17 Q. Was that at The Woods?

18 A. Yes, that's correct.

19 Q. Other than August of '06 when you were  
20 in rehab, has there been any other time since  
21 April of '06 that you've been unable to work for  
22 any reason?

23 A. Could you rephrase that a little bit?

24 Q. Sure. From the time since you left

1 Doctors in April of '06 until the present, has  
2 there been any time that you've been unable to  
3 work for any reason?

4 A. In Ohio my license was suspended  
5 between August and February. August of '06 to  
6 February of '07. I was not able to work and I was  
7 able to get my license back. The State of  
8 Missouri as a reciprocal move asked me to be  
9 evaluated. And in Missouri I had been unable to  
10 work because of the restriction on my license.  
11 They have not lifted the suspension. So in  
12 Missouri, I've been unable to work.

13 Q. When did Missouri restrict your  
14 license?

15 A. In February of 2007.

16 Q. Which was the -- around the same time  
17 that Ohio reinstated your license?

18 A. Correct, yes.

19 Q. So you've had a license in either Ohio  
20 or Missouri at all times?

21 A. Yes.

22 Q. Since April of '06?

23 A. Yes.

24 Q. Okay. So any other reason why you have

1       been unable to work since April of '06?

2       A.           Yes.

3       Q.           And what was that?

4       A.           Not being Board certified restricts the  
5       facilities that I can work at.

6       Q.           Okay. Has there been any reason other  
7       than issues with your medical license why you've  
8       been unable to work since April of '06?

9       A.           No.

10      Q.           And the fact that you were in  
11      inpatient rehab. Was that inpatient rehab?

12      A.           Yes.

13      Q.           Okay. So when you got out of the  
14      inpatient rehab -- and was that beginning of  
15      September or end of August?

16      A.           It was the end of August.

17      Q.           Of '06, then did you go back to the ER  
18      in Missouri?

19      A.           Yes.

20      Q.           And were you working in Ohio as well?

21      A.           No.

22      Q.           When you did work in Ohio in that May  
23      to August time frame, where did you work?

24      A.           The urgent cares in Dayton.

1 Q. Was that part of a particular company?

2 A. Yes. I'm trying to think of the name.

3 I don't recall the name.

4 Q. There was more than one?

5 A. Yes.

6 Q. And then did you also work at urgent  
7 care in Columbus?

8 A. I don't believe I did, no.

9 Q. So after you got out of rehab, you  
10 moved back to Missouri, correct?

11 A. Could you rephrase that?

12 Q. After you got out of rehab at the end  
13 of August of '06, did you move back to Missouri?

14 A. No.

15 Q. What did you do?

16 A. I commuted between Missouri and Ohio.

17 Q. And you worked at the ER at Twin Rivers  
18 until November of '06?

19 A. Yes.

20 Q. Did you work anywhere else from  
21 September to November of '06?

22 A. No.

23 Q. And then what did you do in November of  
24 '06?

1           A.           I separated from my wife for a month  
2           and I moved down to Florida.

3           Q.           So you lived in Florida from when to  
4           when?

5           A.           For the month of November.

6           Q.           Did you work at all then?

7           A.           No.

8           Q.           And then you moved back for December --

9           A.           Yes.

10          Q.           -- of '06? Did you work anywhere then?

11          A.           No.

12          Q.           When was the next time you were  
13          employed?

14          A.           January of '07.

15          Q.           Where did you go to work in January of  
16          '07?

17          A.           I went to two different ERs in  
18          Missouri.

19          Q.           And where was that?

20          A.           One was Cedar County Memorial Hospital.  
21          And the other was Nevada Regional.

22          Q.           How long did you work there for Cedar  
23          County and Nevada Regional?

24          A.           For less than a month.



1 Q. Because then you lost your license in  
2 Missouri?

3 A. Yes.

4 Q. Was there a period then when you were  
5 unemployed?

6 A. Yes.

7 Q. For how long?

8 A. Between February of '07 to  
9 approximately May of '07.

10 Q. And by May of '07, you had your Ohio  
11 license?

12 A. Yes.

13 Q. And what did you do in May of '07?

14 A. I started working at an office down in  
15 Ironton, Ohio.

16 Q. What was the name of that?

17 A. County Wide Health.

18 Q. Who owns County Wide Health?

19 A. I believe his name is Rick Billiter.

20 Q. Is he a physician?

21 A. No.

22 Q. Were there other offices of County Wide  
23 Health or just the one?

24 A. Just the one.

1 Q. In Ironton?

2 A. Yes.

3 Q. Were there other physicians working  
4 there at the time you were there?

5 A. For a period of a few months when I  
6 first started, there was a gentleman, another  
7 physician there, but he left after a few months.

8 Q. Who was there when you started?

9 A. The other physician?

10 Q. Yes.

11 A. I don't recall his name.

12 Q. Was this a general family practice?

13 A. It was a similar practice concept to  
14 what I do now. It was a general practice with  
15 pain management.

16 Q. In May of '07, were you under  
17 restrictions as far as your ability to administer  
18 controlled substances?

19 A. Yes.

20 Q. And what were those?

21 A. The restrictions in May of '07 that I  
22 had on my license for controlled substances was  
23 that I could not personally furnish, administer or  
24 dispense narcotics.

1 Q. And how long -- is that limitation  
2 still in place?

3 A. Yes.

4 Q. Has it been in place continually since  
5 February or March of '07?

6 A. Yes. Yes, I believe it was March.

7 Q. March of '07. Okay. And were you able  
8 to comply with that restriction while you were at  
9 County Wide Health?

10 A. Yes.

11 Q. How did you do that? How did that  
12 work?

13 A. There were no narcotics at the  
14 practice, just prescribing.

15 Q. And how long were you with County Wide?

16 A. From May until January. May of '07  
17 till January of '08.

18 Q. And what did you do in January of '08?

19 A. I started my own practice.

20 Q. Is that the practice that you have now?

21 A. Yes.

22 Q. What was the name of that again? I  
23 know you told me.

24 A. Adam P. Hall, D.O., Incorporated. It's

1 a dba Pinnacle Wellness & Longevity.

2 Q. And there was some litigation from  
3 County Wide after you left there --

4 A. Yes.

5 Q. -- correct? And what was the nature of  
6 that lawsuit?

7 THE WITNESS: Do I have to answer that  
8 question?

9 MR. MEZIBOV: You can answer.

10 THE WITNESS: Okay.

11 A. The nature of the lawsuit was the  
12 gentleman who owned the practice sued me for  
13 leaving the practice without notice. I believe it  
14 was more like a noncompete. He was trying to say  
15 that I was competing with his practice. But I  
16 didn't have a noncompete. And that case has since  
17 been settled with prejudice. We had a motion for  
18 summary judgment and it's been since settled.

19 Q. Okay. Do you know when that case was  
20 dismissed?

21 A. Just last week.

22 Q. And is it your understanding that it  
23 was dismissed based on your motion for summary  
24 judgment?

1 A. Yes.

2 Q. At one point was there a temporary  
3 restraining order in place? Do you know what I'm  
4 talking about?

5 A. A temporary injunction?

6 Q. Yes.

7 A. Yes.

8 Q. What were you prevented from doing  
9 under that injunction?

10 A. Well, the owner of the previous  
11 business had his lawyers file a motion for a  
12 temporary injunction. And I was just restricted  
13 from seeing those patients that had been County  
14 Wide patients for, I believe, about a two-day  
15 period of time when the injunction was lifted.

16 Q. Are you currently -- so that case is  
17 dismissed --

18 A. Yes.

19 Q. -- as far as you know?

20 A. Yes.

21 Q. Okay. Are you currently involved in  
22 litigation, additional litigation with some of the  
23 other folks that you worked with at County Wide?

24 A. Yes.

1 Q. And what's the status of that  
2 litigation?

3 A. It's still currently pending. Do you  
4 mind if I get some water real quick?

5 Q. Sure. Why don't we take a quick break.

6 (Dr. Blackburn joins the deposition.)

7 (A short recess is taken.)

8 Q. You understand you're still under oath?

9 A. Yes.

10 Q. We were talking earlier about your  
11 current practice now?

12 A. Yes.

13 Q. And you said that that was some general  
14 practice and then some pain management --

15 A. Correct.

16 Q. -- correct? Now, as part of your pain  
17 management, are you furnishing, administering or  
18 dispensing any sort of controlled substance?

19 A. No.

20 Q. How does that work?

21 A. Well, I prescribe medications, I just  
22 don't have any controlled substances that I  
23 personally furnish, administer or dispense in the  
24 office.

1 Q. So you really don't have at this point  
2 access to controlled substances beyond issuing a  
3 prescription?

4 A. Correct.

5 Q. Dr. Hall, from time to time during your  
6 deposition we're going to be handing you some  
7 documents I'll be asking you questions about.  
8 We'll be marking them as exhibits. You need to  
9 make sure that you leave the original for the  
10 court reporter. Your attorney will have a copy as  
11 well.

12 - - - - -

13 Thereupon, Defendants' Exhibit 1 is marked  
14 for purposes of identification.

15 - - - - -

16 Q. There may be an extra here or there  
17 but --

18 MR. MEZIBOV: I was going to ask, but I  
19 guess it's too late. I've found it to be useful  
20 for everybody if we just use a running 1, 2, 3, 4.

21 MS. DAY: Well, you know what, it may  
22 not be a bad idea to use numbers anyway because I  
23 don't know how many I've got.

24 MR. MEZIBOV: We'll use the same

1 numbers.

2 MS. DAY: You can turn that into 1.

3 Q. Dr. Hall, we've handed you what we've  
4 marked as Exhibit 1. Do you recognize this  
5 document?

6 A. Yes.

7 Q. And I believe this was a copy of your  
8 resume that was produced in discovery. Is this a  
9 current resume?

10 A. No.

11 Q. In what way is it not current?

12 A. On the third page where it says  
13 available upon request where I have listed Ohio,  
14 Florida, Kentucky, I don't have a Kentucky  
15 license. I believe I was going to get one, but I  
16 did not receive one.

17 Q. Do you have a Florida license?

18 A. Yes.

19 Q. So you have since revised your resume  
20 to take out the part about Kentucky?

21 A. I haven't. No, I have not revised it.  
22 I just looking at this --

23 Q. Okay. That's just something that's not  
24 accurate?



1 A. Right.

2 Q. And then you also on the second page  
3 list the Iron-ton, dba Pinnacle Wellness. That's  
4 your practice, correct?

5 A. Yes. And I don't have the --

6 Q. Columbus?

7 A. -- Columbus office listed either.

8 Q. Do you know when you prepared this  
9 resume?

10 A. It would have preceded 2009 I believe.  
11 It would have been in the year of 2008.

12 Q. I'd like to talk a little bit about  
13 your educational background. And just have your  
14 resume there to the extent that it helps refresh  
15 you.

16 Did you graduate from high school?

17 A. Yes.

18 Q. And where did you go?

19 A. Lee's Summit Senior High School.

20 L-E-E-'-S Summit Senior High School.

21 Q. And where is that?

22 A. That's in Lee's Summit, Missouri.

23 Q. And after high school, did you go  
24 directly to the Air Force?

1 A. Yes.

2 Q. So you graduated from high school in  
3 1991?

4 A. Correct.

5 Q. And why did you leave the Air Force  
6 Academy?

7 A. I left the Air Force Academy because I  
8 lost my pilot slot due to a vision change.

9 Q. Any other reason?

10 A. No.

11 Q. And your resume states that you left or  
12 that you were there from 6-91 to 2-92 --

13 A. Correct.

14 Q. -- is that correct? And then you ended  
15 up at the University of Missouri in August of '92,  
16 correct?

17 A. Correct.

18 Q. What did you do in between?

19 A. I took some courses at a community  
20 college. I may not have listed it on there, but I  
21 took some courses at a -- it's called Longview  
22 Community College.

23 Q. And where is that?

24 A. It's in Lee's Summit, Missouri.

1 Q. And your resume states you graduated  
2 from the University of Missouri in December 1994;  
3 is that correct?

4 A. Correct.

5 Q. With a B.A. in chemistry?

6 A. Yes.

7 Q. And what did you do after you graduated  
8 from the University of Missouri?

9 A. Well, I had applied to do some work as  
10 a chemist, but I decided not to pursue that route.  
11 And I worked some odd jobs as a waiter until I  
12 went back to school in '95 for a couple months.

13 Q. Okay. So between December of '94 and  
14 August of '95, just odd jobs?

15 A. Correct.

16 Q. Where were you living then?

17 A. I was still living in the college town  
18 of Columbia.

19 Q. Did you start at then Creighton in  
20 Omaha in August of 1995?

21 A. Correct.

22 Q. And what type of program were you in at  
23 Creighton?

24 A. I was going to a healthcare program for

1 nursing.

2 Q. Was that a master's program?

3 A. It was an accelerated program. If you  
4 already had a bachelor's, you could get it in a  
5 year.

6 Q. And so did you obtain some sort of  
7 degree or certification from Creighton?

8 A. No.

9 Q. Did you complete that program?

10 A. No.

11 Q. And then did you leave Creighton in  
12 February of 1996?

13 A. Correct.

14 Q. And why was that?

15 A. I just didn't finish the program. I  
16 had some -- just had some personality issues with  
17 the staff there. And it just wasn't really a  
18 program that I wanted to continue pursuing.

19 Q. Did you leave Creighton voluntarily?

20 A. I was put on leave and I had the option  
21 of coming back, but I didn't go back so --

22 Q. When did they put you on leave?

23 A. About the same time that I listed on  
24 there for the resume.

1 Q. February of '96?

2 A. Uh-huh. Correct.

3 Q. So were you on some sort of -- do you  
4 know what exactly your status was as of February  
5 of '96?

6 A. I really couldn't say. I really don't  
7 recall.

8 Q. What was the reason that Creighton gave  
9 you for putting you on leave or asking you to  
10 leave or whatever it was?

11 A. Again, I think there was some issues  
12 with personality. I really honestly could not  
13 recall as to the exact detail of it to the exact  
14 extent.

15 Q. What were the issues with personality?

16 A. I just believe that they were -- to the  
17 best of my recollection, I believe that some of  
18 the staff and I did not get along.

19 Q. Was there any particular incident that  
20 led to Creighton putting you on leave?

21 A. I don't recall. There may or may not  
22 have been.

23 Q. Do you recall any discussion with any  
24 of the administrators at Creighton about going on

1 leave or the reasons for being put on leave?

2 A. I'm sure I had some discussions with  
3 them, but I don't recall what they were.

4 Q. So what did you do then in February of  
5 1996?

6 A. I sought application for medical school  
7 because that was my desire end goal to be a  
8 physician. And so I started applying for programs  
9 to do medicine. And I worked for a few months  
10 prior to going back to medical school.

11 Q. And where did you work in between  
12 February and August 1996?

13 A. I believe I may have spent some time in  
14 Kansas City near my folks. And I may have also  
15 gone back to Columbia. But, again, that's hard to  
16 recall the exact sequence of events.

17 Q. And then you started medical school at  
18 Des Moines University in August of 1996?

19 A. Correct.

20 Q. And were you a full-time student there  
21 until June of 2000?

22 A. Yes.

23 Q. Were you subject to any discipline  
24 while you were at Des Moines University?

1 A. To the best of my knowledge, no.

2 Q. Were there any occasions while you were  
3 at Des Moines University when you were placed on  
4 any sort of probationary status?

5 A. There was a rotation towards the end of  
6 my fourth year that I received unsatisfactory  
7 marks and had to repeat.

8 Q. What rotation was that?

9 A. Internal medicine.

10 Q. Any other occasions where you can  
11 recall either being disciplined or placed on any  
12 sort of probationary status?

13 A. No.

14 Q. After you graduated in June of 2006,  
15 did you then complete an internship?

16 A. Yes.

17 Q. And was that at Peninsula Hospital?

18 A. Yes.

19 Q. In Far Rockaway, New York?

20 A. Yes.

21 Q. And did you complete that internship?

22 A. Yes.

23 Q. Were you placed on probationary status  
24 at all with Peninsula Hospital?

1 A. To the best of my recollection, no.

2 Q. Were you disciplined at all during your  
3 internship with Peninsula Hospital?

4 A. To the best of my recollection, no.

5 Q. What type of internship was that?

6 A. It would be considered a traditional  
7 rotating internship.

8 Q. And after you completed the  
9 internship -- and that was in about June of 2001;  
10 is that correct?

11 A. Yes.

12 Q. What did you do after that?

13 A. I moved to California to start an  
14 anesthesia residency.

15 Q. And that was with Riverside County  
16 Regional Medical Center?

17 A. Correct.

18 Q. And you were only there until August of  
19 2002, correct?

20 A. Yes.

21 Q. So did you get credit for the first  
22 year of that residency?

23 A. I sent my documentation to the American  
24 Osteopathic College of Anesthesia, but I don't



1 know if I received credit from them, so I don't  
2 know.

3 Q. You redid a first year anesthesia  
4 residency at Doctors --

5 A. Correct.

6 Q. -- in any event? And why did you not  
7 complete your full residency with Riverside County  
8 Regional Medical Center?

9 A. Prior to your 25th month of training,  
10 which would be a PGY3, it required you to have a  
11 permanent medical license, and I did not pass my  
12 step-three boards in time to get the license.

13 Q. Did you ultimately pass it?

14 A. Yes.

15 Q. And when did you pass that? Feel free  
16 to look at that.

17 A. During the period of 8-2002 to 12-02 I  
18 took a sabbatical. That's when I did the Board  
19 prep. And I took the test in December. I believe  
20 it was '02. I believe that's when it was given.  
21 And I passed it at that time.

22 Q. Any other reason why you did not  
23 complete the residency at Riverside County  
24 Regional Medical other than you not passing the

1 Step III Boards in time?

2 A. No, not that I know of.

3 Q. Other than in connection with not  
4 passing the Step III Boards in time, were you  
5 subject to any discipline or probation at  
6 Riverside County?

7 A. Not that I recall, no.

8 Q. So then I think you've already said  
9 from August to December '02, you took off to study  
10 for your Boards?

11 A. Yes, that's correct.

12 Q. And then you took them in about  
13 December of '02?

14 A. Yes.

15 Q. And when did you find out that you  
16 passed?

17 A. About eight weeks later.

18 Q. And what did you do after that?

19 A. Well, after December, January of '03, I  
20 started a family practice program. So while I was  
21 waiting to get my results back, I had already  
22 started another program.

23 Q. Did you apply for other anesthesia  
24 residences before you went to -- back to Missouri

1 in January?

2 A. I had called.

3 Q. I'm sorry?

4 A. I had called numerous programs around  
5 the country and there were not any available  
6 slots.

7 Q. And then you were only at the Medical  
8 Center of Independence -- that's where the family  
9 practice residency was, correct?

10 A. Yes.

11 Q. You were only there from January of  
12 2003 to June of 2003; is that right?

13 A. Yes.

14 Q. And why did your residency there end?

15 A. Because I missed a call shift and was  
16 subsequently terminated.

17 Q. And that was an issue that came up when  
18 you had applied for your Ohio license, correct?

19 A. Yes.

20 Q. What did you do then between June of  
21 2003 and February of 2004 when you started at  
22 Doctors?

23 A. During that period that I wasn't  
24 working or in a residency, I had received my

1 Missouri medical license during that time and I  
2 was moonlighting, doing some ER work in small  
3 facilities outside the metropolitan area.

4 Q. And if you go ahead and look at the  
5 second page of your resume, this entry starting  
6 with ER physician, Cameron Regional Medical  
7 Center, do you see where I'm referring?

8 A. Yes.

9 Q. And then it looks like there are about  
10 four of them, I guess, during that time period.  
11 Were those the places where you worked?

12 A. Yes.

13 - - - - -

14 Thereupon, Defendants' Exhibit 2 is marked  
15 for purposes of identification.

16 - - - - -

17 Q. I'm handing you what we've marked as  
18 Exhibit 2. Go ahead and take a look at this. Do  
19 you recognize this document?

20 A. Yes.

21 Q. And is the first page of Exhibit 2 the  
22 cover letter that you submitted when applying for  
23 an anesthesia residency at Doctors?

24 A. I believe so.

1 Q. And this letter is dated December 14,  
2 2003. Do you believe that that's around the time  
3 that you applied?

4 A. Yes.

5 Q. And then the second, third and fourth  
6 pages are a version of your -- a previous version  
7 of your resume, correct?

8 A. Yes.

9 Q. And was this the resume that you  
10 submitted to Doctors in December of 2003 when you  
11 applied for residency?

12 A. I'm not sure. It may or may not be.

13 Q. Do you have any reason to believe that  
14 it's not?

15 A. Again, it may or may not be the one  
16 that I submitted.

17 Q. Right. No, I understand that. But do  
18 you have any reason to believe that it's not?

19 A. Again, I don't know if it is or it  
20 isn't. I really --

21 Q. No, I understand that you're saying  
22 you're not sure if this is it.

23 A. Right.

24 Q. But what I'm asking you is a different

1 question. I understand you're not sure whether or  
2 not it is. But do you have any reason to believe  
3 that it's not?

4 A. No.

5 Q. Okay. Looking at the third page under  
6 employment, do you see where the first entry is  
7 family medicine resident?

8 A. Uh-huh. Yes.

9 Q. Where it says January '03 to current,  
10 did I read that correctly?

11 A. It looks like it, yes.

12 Q. At the time that you applied for your  
13 residency at Doctors, you weren't still doing your  
14 family practice residency?

15 A. Correct.

16 Q. When you applied for your residency  
17 with Doctors, did you interview with anyone?

18 A. I believe I did, yes.

19 Q. Do you remember who?

20 A. I believe I talked with the program  
21 director and a few of the residents when I came in  
22 to interview.

23 Q. And who was the program director then?

24 A. At the time it was Dr. Tony Zucco.

1 Q. And you believe that you talked to  
2 Dr. Zucco before Doctors offered you the  
3 residency?

4 A. Yes.

5 Q. And you think you also talked to some  
6 residents?

7 A. Yes.

8 Q. Do you remember who those people were?

9 A. I believe the residents I talked to  
10 were Nate Hanflink and Dan Blake.

11 Q. On Exhibit 2 on the first page, back to  
12 the cover letter, in the first sentence you say  
13 that you're interested or applying for the  
14 anesthesiology residency at Doctors. And then the  
15 second sentence says, "I am familiar with Doctor's  
16 Hospital and Columbus as I spent approximately  
17 eight months of my third year of medical school  
18 there and I enjoyed the hospital and staff very  
19 much."

20 Did I read that correctly?

21 A. Yes.

22 Q. What were you doing at Doctors during  
23 your third year of medical school?

24 A. I would have been in my third year

1 doing general medicine training for the  
2 osteopathic medical practice, so I would assume to  
3 the best of my recollection a wide variety of  
4 things. But I don't remember specifically what I  
5 did.

6 Q. Is there any reason why you don't  
7 remember what you did during that time period?

8 A. No, nothing particular. I mean, I'm  
9 sure I did general surgery and medicine and  
10 pediatrics and family practice. It's pretty much  
11 a core training program. So at the time, it was  
12 whatever the requirements of the medical school  
13 were.

14 Q. Do you have any condition that you're  
15 aware of that affects your memory or ability to  
16 recall things?

17 A. Well, I had -- for a long period of  
18 time during medical school and until 2006, I had  
19 major depressive disorder. So that would  
20 definitely affect my ability to recall events.

21 Q. From that time period?

22 A. Yes.

23 Q. Do you do better recalling events since  
24 2006?



1 A. Yes.

2 Q. Any other reason other than the  
3 depressive disorder that you're aware of that  
4 affects your ability to recall?

5 A. Well, I have a dependence issue, and  
6 some memory loss might have been associated with  
7 it.

8 Q. You're talking about the chemical  
9 dependency?

10 A. Yes.

11 Q. Have any of your healthcare providers  
12 ever told you that you may have memory loss  
13 associated with that, with the chemical  
14 dependency?

15 A. I have not specifically been told that.

16 Q. You just suspect that that may be the  
17 case?

18 A. Yes.

19 Q. Prior to being offered the residency  
20 with Doctors, did you discuss with anyone there  
21 the circumstances surrounding your family practice  
22 residency being terminated?

23 A. Can you rephrase that question?

24 Q. Sure. Prior to being offered the

1       residency by Doctors, did you tell anybody there  
2       about why your residency in Missouri had been  
3       terminated?

4       A.           Yes.

5       Q.           Who did you talk to about that?

6       A.           I talked with Dr. Zucco about it.

7       Q.           And what did you tell him?

8       A.           I had told him that I had been  
9       terminated for missing a call shift.

10      Q.           And what did Dr. Zucco say?

11      A.           He asked basically what had happened.  
12      And I told him that I missed a call shift and I  
13      was subsequently terminated. I was looking to  
14      continue with my training. And I believe that  
15      answered the question to his satisfaction and  
16      there was not -- no further questions were asked  
17      about it.

18      Q.           Did you tell him why you missed the  
19      call shift?

20      A.           No.

21      Q.           So he didn't ask you about why you had  
22      missed it?

23      A.           No.

24      Q.           And you didn't tell him that you had

1 initially lied about missing the call shift to the  
2 folks in the residency in Missouri?

3 A. Correct.

4 Q. Correct, you didn't tell Dr. Zucco  
5 that?

6 A. No, I did not.

7 Q. Did you at any subsequent point tell  
8 anyone from Doctors that you had initially lied  
9 about the reasons for missing the call shift?

10 A. Yes.

11 Q. Who did you discuss that with later?

12 A. When I applied for my Ohio medical  
13 license, I needed letters of reference. So I  
14 talked with Dr. Zucco, Dr. Reddy and Dr. Furbee,  
15 and they were aware of the circumstances. And I  
16 had expressed remorse for the situation. And they  
17 felt that I was deserving a recommendation.

18 Q. So you explained to Dr. Zucco,  
19 Dr. Reddy and Dr. Furbee that you needed a letter  
20 of recommendation in connection with your  
21 application --

22 A. Yes.

23 Q. -- for an Ohio license?

24 A. Yes.

1 Q. And did you explain to them why there  
2 was an issue with your Ohio license?

3 A. Yes.

4 Q. And did you explain to each of them  
5 that you had initially lied when asked about it,  
6 about why you missed the call shift?

7 A. I'm not sure exactly what I related to  
8 them in discussing the situation, but I believe I  
9 did tell them the full circumstances. But I'm not  
10 sure exactly what they would recall.

11 Q. Oh, no, I'm not asking you what they  
12 would recall. I'm asking you what you recall.

13 A. I believe I was fully honest with them.

14 Q. At that point?

15 A. Yes.

16 Q. And that was when?

17 A. I would have to look at the file to see  
18 what the dates were that they dated their letters  
19 of reference. But I believe that it was somewhere  
20 between September and November of '05.

21 Q. There was a hearing before the Ohio  
22 Medical Board?

23 A. Yes.

24 Q. So would it have been sometime around

1       that hearing, the date of that hearing?

2       A.           I believe it would have preceded that  
3       by a little bit. But, yes, it would have been  
4       close to that time period.

5       Q.           Okay. What were the circumstances  
6       surrounding you missing the call shift?

7       A.           The circumstances were I had previously  
8       worked that day at the children's clinic. I was  
9       starting to feel sick. And so I went home and I  
10      took some cold medicine prior to the call shift, a  
11      few hours. And I was going to sit -- take a nap  
12      and then go into work. I had been  
13      self-prescribing antidepressants for not only what  
14      I knew was a major depressive disorder that was not  
15      getting treated accurately, but also for chronic  
16      pain as that medicine had dual properties to it.

17                   Unfortunately the combination thereof  
18      caused me to be sedated to the point that I didn't  
19      show up for work and subsequently missed a shift.  
20      And then the consequences occurred after that.

21      Q.           And what explanation did you provide  
22      when you were initially confronted with the fact  
23      that you had missed a call shift?

24      A.           I lied and said that I was available.

1 Q. What do you mean that you were  
2 available?

3 A. That I had been available to do the  
4 work.

5 Q. And you just didn't hear the calls  
6 or --

7 A. Yes.

8 Q. Did you say where you were?

9 A. I did. I said I was in the hospital in  
10 the computer library.

11 Q. And then did somebody check and --

12 A. Yes.

13 Q. -- see that you weren't on the  
14 computer?

15 A. Yes.

16 Q. Did they come back to you then and say,  
17 we checked, you weren't on the computer, words to  
18 that effect?

19 A. Yes.

20 Q. And then what happened?

21 A. I basically a day later I went back and  
22 revised my story to the medical staff and asked  
23 for forgiveness for the lie and to try and salvage  
24 the position.

1 Q. Did you -- when you went back and told  
2 them that, no, you were actually asleep, did you  
3 tell them that you had taken cold medicine?

4 A. Yes, I did.

5 Q. But you didn't tell them about the  
6 other medications that you were taking?

7 A. No. There was some shame and  
8 embarrassment. And, again, the long-standing  
9 depression, I guess there was maybe a stigma in my  
10 mind about the diagnosis of depression. So I  
11 wasn't forthcoming with that.

12 Q. What were you taking -- you said you  
13 were self-medicating for depression. What were  
14 you taking at that time?

15 A. I was taking Elavil.

16 Q. And then you said you also had chronic  
17 pain. Were you self-medicating for that as well  
18 at that time period?

19 A. Yes.

20 Q. And what were you taking? What else  
21 were you taking?

22 A. Well, I was hoping that the Elavil  
23 would be enough, as I had read it had  
24 pain-modifying effects. But as it was not doing

1 the job, weekends, things like that, I would take  
2 a lot of over-the-counter ibuprofen, aspirin,  
3 whatever I could get my hands on, and I would mix  
4 it with alcohol.

5 Q. What were you on the particular night  
6 when you missed the call shift? The cold  
7 medicine, do you remember what kind of cold  
8 medicine it was?

9 A. I believe it was NyQuil. It was the  
10 DayQuil version. It was supposed to be  
11 nonsedating but --

12 Q. So DayQuil?

13 A. Yes.

14 Q. And then you were on Elavil?

15 A. Yes.

16 Q. And anything else?

17 A. To the best of my recollection, no.

18 Q. Now, when the issue came up with the  
19 Ohio Medical Board, you admitted to them that you  
20 had lied initially when asked about why you missed  
21 the on-call shift, correct?

22 A. Yes.

23 Q. And you told them that you had taken  
24 cold medicine and you were sleeping at the time at



1 home?

2 A. Yes.

3 Q. But you didn't tell the Medical Board  
4 about also being on Elavil or anything else?

5 A. No, I didn't.

6 Q. And when you talked to Dr. Zucco or  
7 Dr. Reddy or Dr. Furbee, did you tell any of them  
8 that you were on anything in addition to the cold  
9 medicine at the time?

10 A. I don't know if those issues came up or  
11 if they had asked about what was the sequence of  
12 events or what medications. I honestly can't  
13 recall that conversation, if I had them with them  
14 and told them what I was taking.

15 Q. Do you know whether you told any of  
16 them that you had been self-medicating for pain or  
17 depression?

18 A. I believe I did.

19 Q. And when was that?

20 A. I believe I said that to them in -- if  
21 not at the time for the discussion for the  
22 reference, in other circumstances.

23 Q. So you're not sure whether or not you  
24 told them about it in the conversation about

1 getting the reference?

2 A. Correct.

3 Q. But you think you talked to all three  
4 of them about it?

5 A. Well, yes, they knew that I had a  
6 medical condition and I had taken time off for two  
7 surgeries during the residency. And so I had  
8 explained to them what was going on, that I had a  
9 chronic pain condition and I was receiving  
10 subsequent treatment for it. And the issues  
11 surrounding it, that I had issues with major  
12 depression, numerous thoughts of suicide, things  
13 along that line. So I had bared my soul to them  
14 so to speak.

15 Q. To all three of them?

16 A. To everybody who would listen,  
17 everybody in the program who would listen.

18 Q. Who else did you talk to about your  
19 depression or pain issues?

20 A. Again, anybody who would listen. I  
21 talked with, I believe, all the residents who were  
22 there. I know I had numerous conversations with  
23 the attendings about it. I know I talked with  
24 Dr. Werhan about it. I talked with

1 Dr. Brown about it.

2 Q. Dr. Werhan. And who was the other  
3 person? I'm sorry.

4 A. Dr. Brown.

5 Q. Yes. Who was the other person,  
6 Dr. Brown?

7 A. Yes.

8 Q. When did you talk to Dr. Werhan about  
9 these problems?

10 A. I'm trying to think of the time period,  
11 but I believe about November of 2005 I discussed  
12 this situation with him.

13 Q. And what did you tell him?

14 A. We had a long talk in the anesthesia  
15 office. And I told him about my medical issues,  
16 and that I was always in a lot of pain. Honestly  
17 that's about all I can recall from that  
18 conversation, but I know that I had discussed the  
19 situation at length with him.

20 Q. And when you say you discussed the  
21 situation at length, why don't you explain to me  
22 what situation exactly you're referring to.

23 A. The chronic pain issue.

24 Q. And what was the chronic pain from?

1           A.           I had connective tissue disease. A  
2           problem with my foot. I had bilateral plantar  
3           fascitis. I had had my achilles tendon  
4           reconstructed a few years prior. And I had some  
5           toe deformities from it as well. So I was  
6           complaining of the pain related to that.

7           Q.           When did your -- and I'm obviously not  
8           a doctor. I'm going to call them foot issues.

9           A.           Sure.

10          Q.           Does that work?

11          A.           Sure, that's fine.

12          Q.           And we'll know that that's what we're  
13          talking about. When did that start?

14          A.           '96.

15          Q.           Okay. So the time you talked to  
16          Dr. Werhan you had been experiencing the chronic  
17          pain and the foot issues for about nine years?

18          A.           Yes.

19          Q.           Did you talk to Dr. Werhan about your  
20          depression issues?

21          A.           Yes.

22          Q.           And what did you tell him about that?

23          A.           I believe I used words like I had  
24          thought about hurting myself in the past. I

1 believe I -- you know, I had expressed that there  
2 was a feeling of lack of luster for life. And  
3 then I thought about hurting myself, that I had a  
4 plan. Things along that line.

5 I can't remember the exact details, but  
6 I know that there were issues where I talked about  
7 my relationship with my ex. We had a very long  
8 dialogue about it, but I know that I expressed in  
9 there the issues that were surrounding my  
10 depression.

11 Q. And how long had you been having issues  
12 with depression?

13 A. Since '96. I would say about three  
14 months after I had my initial flare-up with my  
15 foot.

16 Q. Did you ever discuss with Dr. Werhan  
17 issues of alcohol abuse?

18 A. No.

19 Q. Did you ever discuss with him issues  
20 with chemical dependency?

21 A. I don't think we discussed chemical  
22 dependency. But I do believe I told him I had  
23 self-prescribed as I believe this issue that came  
24 up had been in regards to self-prescribing for

1 Ultram.

2 Q. I'm sorry, for what?

3 A. For Ultram.

4 Q. And that was for your foot?

5 A. Yes.

6 Q. What is Ultram?

7 A. Ultram is called Tramadol. It's a --  
8 and when you ask about this, do you want the  
9 medical or just a general definition of it?

10 Q. Something I can understand.

11 A. Okay. It's a pain medicine. But it's  
12 not, per se, an opiate.

13 Q. How does it work?

14 A. It works on the opiate receptor, but  
15 they call it a semisynthetic analog. And it  
16 doesn't have the same euphoric potential as the  
17 full opiates.

18 Q. Do you specifically remember telling  
19 Dr. Werhan that you were self-prescribing Ultram?

20 A. I don't know if I specifically said it,  
21 but the issue came up with Dr. Hilliard  
22 previously. And I believe it did come up in  
23 subsequent conversations with Dr. Werhan.

24 Q. The issue being that you were

1 self-prescribing it?

2 A. Yes.

3 Q. Do you remember anything specifically  
4 at all about discussions with Dr. Werhan such as  
5 anything you said or anything that he said on the  
6 issue of you self-prescribing Ultram?

7 A. I don't recall. I just remember having  
8 a conversation with Dr. Hilliard one time about it  
9 and Dr. Werhan may have been in that discussion.  
10 Maybe. I don't remember. I know I was in  
11 Dr. Hilliard's office discussing it. Dr. Werhan  
12 may have been in there at that time. But I don't  
13 know if he was or if he wasn't 'cause Dr. Zucco  
14 may still have been the program director at that  
15 time.

16 Q. When did Dr. Werhan become the program  
17 director?

18 A. Late 2005.

19 Q. I guess backing up still talking about  
20 Dr. Werhan for a moment, do you recall telling  
21 Dr. Werhan that you were self-prescribing anything  
22 other than Ultram?

23 A. I may have had the discussion with him  
24 about the self-prescribing of Elavil when I was a

1 resident in the family practice program as I think  
2 I had discussed with most of the attendings the  
3 issue as I was trying to get references from most  
4 of them.

5 Q. References for?

6 A. For the Medical Board when I applied.  
7 So I had talked with most of them that I had had  
8 numerous offers from Dr. Reddy, Dr. Furbee,  
9 Dr. Zucco and felt that that was probably  
10 adequate. But I believe I may have talked with  
11 Dr. Werhan in regards to trying to get the  
12 reference letters. So I had, again, opened up  
13 about it to him.

14 Q. But you're not sure one way or the  
15 other whether --

16 A. I'm not. I'm not. I had a lot of  
17 discussions with people about it.

18 Q. You had earlier been referring to a  
19 conversation that you had with Dr. Hilliard?

20 A. Yes.

21 Q. And when was that?

22 A. I believe it was August of 2005. It  
23 was in regards to the self-prescribing of Ultram.

24 MR. MEZIBOV: Did you say August '05?



1 THE WITNESS: I believe that's when it  
2 was. I'm not sure.

3 Q. And why were you talking to  
4 Dr. Hilliard at that time?

5 A. Because the Medical Board had launched  
6 an investigation for self-prescribing the Ultram.  
7 The pharmacist in the community had called the  
8 Board because I had self-prescribed. And the  
9 Medical Board launched an investigation around  
10 this time period. And I had told the Medical  
11 Board I had been self-prescribing for pain. They  
12 said that was not adequate, but really didn't  
13 launch a further investigation. But they had  
14 called, I think it's the pharmacist in addition to  
15 calling the Medical Board had also called  
16 Dr. Hilliard. And Dr. --

17 Q. Who was the pharmacist? I'm sorry.

18 A. I don't know. It was a -- I don't know  
19 the person's name. They were at a CVS in  
20 Columbus.

21 Q. Which CVS?

22 A. The one off of High Street and Morse  
23 Road.

24 Q. Okay.

1           A.           And so they called Dr. Hilliard. And I  
2           went into Dr. Hilliard's office. And we had a  
3           very brief discussion. He was -- I believe the  
4           emotion would have been irate, and just said don't  
5           do that again. You're not supposed to be  
6           self-prescribing. And have your -- and I told  
7           him, well, I have a lot of pain. He said, have  
8           your doctor do it. Have your orthopedic surgeon  
9           do it.

10                    So I told him about the foot condition  
11           and the fact that I was in a lot of pain. He  
12           said, just have your orthopedic surgeon take care  
13           of that issue. And that was the extent of the  
14           conversation.

15           Q.           How do you know that the pharmacist had  
16           called Dr. Hilliard?

17           A.           He said that they had called him.

18           Q.           Dr. Hilliard said?

19           A.           Yes.

20           Q.           So Dr. Hilliard then called you in to  
21           talk. I mean, you hadn't approached him, correct?

22           A.           No, I had not.

23           Q.           And he was angry that you were  
24           self-prescribing Ultram?

1 A. Yes.

2 Q. Did you have any discussions with  
3 Dr. Hilliard about self-prescribing anything other  
4 than Ultram?

5 A. No. It was a very brief conversation.

6 Q. So he knew that you were  
7 self-prescribing Ultram and he wasn't happy about  
8 it?

9 A. Yes.

10 Q. Did you at any occasion, that occasion  
11 or any other occasion, tell Dr. Hilliard that you  
12 had addiction or chemical dependency issues?

13 A. No.

14 Q. Did you at that point or any other  
15 point tell Dr. Hilliard that you had depression  
16 issues?

17 A. I may have, but I'm not sure.

18 Q. Why didn't you have your doctor  
19 prescribe to you medication?

20 A. I think at that point in time, it may  
21 have been a weekend, I may not have been able to  
22 have access to him, I may have called his service.  
23 There might have been a variety of reasons. I  
24 don't remember exactly. But the issue was I was

1 not getting the kind of response that I wanted.

2 And I had talked with him on numerous occasions as  
3 well telling him about my chronic pain, how I was  
4 suicidal. And I just never really got the  
5 medication response that I wanted.

6 So I think I took it in my own hands  
7 because I felt that I was not being treated  
8 appropriately.

9 Q. Who was your orthopedic surgeon?

10 A. Dr. Greg Berlet.

11 Q. Berlet?

12 A. B-E-R-L-E-T.

13 Q. And when you were just speaking saying  
14 you didn't think you were getting the care that  
15 you needed, you were talking about Dr. Berlet?

16 A. Yes.

17 Q. During the time that you were at  
18 Doctors, did you see any other physicians for your  
19 chronic pain other than Dr. Berlet?

20 A. I did see a podiatrist one time and --  
21 at her office formally. But she also worked in  
22 the operating room and would inject me informally.

23 Q. And who was that?

24 A. I cannot remember her name to save my

1 life.

2 Q. So did you say you just saw her  
3 informally, or was it --

4 A. One time I saw her at her office  
5 because she was going to prescribe some inserts  
6 for my shoes as I was looking for any sort of  
7 relief with any method or modality. And she said  
8 she had some good inserts. I would have to come  
9 to her office to discuss it. But that was the  
10 only time I saw her. And then otherwise I saw her  
11 in the operating room and she would give me  
12 injections of steroids into my foot.

13 Q. So she never prescribed any medication  
14 for you, correct?

15 A. Correct.

16 Q. I'm just trying to figure out the name  
17 of the podiatrist. I thought I had it there and I  
18 don't.

19 What steroids did this podiatrist  
20 inject you with?

21 A. Kenalog.

22 Q. Anything else?

23 A. Just Kenalog. Well, I take that back.  
24 There might have been some lidocaine mixed in with

1 the Kenalog.

2 Q. I'm sorry. Lidocaine?

3 A. Lidocaine.

4 Q. What's that?

5 A. It's a local anesthetic to numb the  
6 area when they do the injection.

7 Q. Did you also at times inject steroids  
8 yourself?

9 A. Yes.

10 Q. How many times did the podiatrist  
11 inject the Kenalog?

12 A. I would say in the period between '04  
13 and '05, three or four times.

14 Q. What about in '06?

15 A. I wasn't there in '06. I mean, between  
16 January and February, I did not work with her.  
17 And the only podiatrist who injected me was  
18 Dr. Davy at one time.

19 Q. So the time in April was Dr. Davy?

20 A. Davy.

21 Q. The other podiatrist, you said it was a  
22 female?

23 A. Yes.

24 Q. Do you remember anything else about

1 her?

2 A. Age, 55 to 60.

3 Q. Anything else you remember?

4 A. No.

5 Q. And what was her race?

6 A. Caucasian.

7 Q. And then Dr. Davy, who is he?

8 A. He was one of the staff podiatrists.

9 Q. And did he also inject you with  
10 steroids?

11 A. Yes.

12 Q. What did he inject you with?

13 A. Celestone.

14 Q. Celestal?

15 A. Celestone, C-E-L-E-S-T-O-N-E.

16 Q. And did he do that just once?

17 A. Yes.

18 Q. And that was the incident in April of  
19 2006 that led to your termination?

20 A. Yes.

21 Q. And I know I asked you this, I don't  
22 remember, but did you also inject yourself --

23 A. Yes.

24 Q. -- with steroids? What did you inject

1       yourself with?

2       A.           Kenalog.

3       Q.           Anything else?

4       A.           I would mix it with lidocaine.

5       Q.           But not this Celestone?

6       A.           No.

7       Q.           How long were you injecting yourself  
8       with Kenalog?

9       A.           Before I came to Doctors, I had done  
10       some self-injection at home. And I had used some  
11       steroids from the hospitals that I had moonlighted  
12       at. So I would say as far back as 2003. But not  
13       very often. Maybe once in a blue moon there. It  
14       definitely became more frequent when I was at  
15       Doctors.

16       Q.           So you had diverted Kenalog previous to  
17       Doctors?

18       A.           Yes.

19       Q.           Were you ever issued a prescription for  
20       Kenalog?

21       A.           No.

22       Q.           Were you ever administered Kenalog by  
23       Dr. Berlet?

24       A.           No. He never -- well, you know, I



1       can't say. He did a surgery on me. Two  
2       surgeries. And I don't know if during the course  
3       of the procedures he may or may not have injected.

4       Q.           Well, other than what may have happened  
5       during a surgery, all of -- is it accurate to say  
6       that all of the Kenalog that you received you had  
7       diverted either from Doctors or somewhere else  
8       that you've worked?

9       A.           Yes.

10      Q.           And this Celestone that you diverted on  
11      April 13th, I believe?

12      A.           Uh-huh.

13      Q.           Was that the only time that you had  
14      taken Celestone?

15      A.           Yes.

16      Q.           And that was the only time you had  
17      diverted the Celestone at Doctors?

18      A.           Yes.

19      Q.           How many times did you divert Kenalog  
20      while you were at Doctors?

21      A.           Well, with every time that I was  
22      injected by the podiatrist, so however many times  
23      that she gave it. And as I was using it on a more  
24      frequent basis and when I didn't have access to

1 her, I would say in the range of another five or  
2 six times in addition to hers.

3 Q. Five or six times that you had  
4 administered it?

5 A. Correct.

6 Q. Plus how many times you think she did?

7 A. Three or four.

8 Q. How did you go about getting it, the  
9 Kenalog?

10 A. The Kenalog was not under lock and key.  
11 It was in the -- what they call the back stand for  
12 the supply cart. So it was freely accessible to  
13 anesthesia or nursing staff.

14 Q. Did you ever tell any of the physicians  
15 that you were working with that you were either  
16 diverting or self-prescribing Kenalog?

17 A. Well, yes.

18 Q. Who did you tell?

19 A. One of the attendings was in the room  
20 when I was getting injected by the podiatrist.

21 Q. Who was that?

22 A. I believe on more than one occasion it  
23 was Dr. Zucco. And then also I believe Dr. Werhan  
24 had walked in one time when I was getting injected

1 as well.

2 Q. But Dr. Zucco and Dr. Werhan didn't  
3 know you were diverting?

4 A. I think they knew that I didn't have a  
5 prescription and that the podiatrist had been  
6 grabbing it -- we were grabbing it out of the back  
7 supply, yes.

8 Q. Why do you think they knew that?

9 A. Because I think they had -- I had told  
10 them -- I'd asked Dr. Zucco on one occasion about  
11 the pain. And he goes, yeah, use the Kenalog  
12 because the podiatrist had asked about it. So I  
13 believe they knew, yes.

14 Q. You think Dr. Zucco told you just to go  
15 ahead and take the Kenalog?

16 A. Yes. I don't know if he said to go  
17 ahead and take it. But I had had the discussion  
18 with him when I was having pain, and he may or may  
19 not. To the best of my recollection, there was  
20 discussions about that.

21 Q. Did you ever tell Dr. Zucco or  
22 Dr. Werhan that you had just taken the Kenalog?

23 A. Like I said, on numerous occasions  
24 attendings had walked into the room. So I don't

1 know if I had told them, but I knew they were  
2 aware of it.

3 Q. You knew that they were aware that you  
4 were being injected with something?

5 A. Yes.

6 Q. But you don't know whether or not they  
7 -- you don't know how -- you don't know if they  
8 knew how you --

9 A. Procured it, correct. Do you mind if  
10 we take a quick break.

11 Q. That's fine. That works.

12 (A short recess is taken.)

13 MR. MEZIBOV: Did you want to  
14 clarify --

15 THE WITNESS: Yes. Since -- we wanted  
16 to clarify, or I wanted to clarify on the issue  
17 with Dr. Zucco advising me to take it, again, I  
18 don't recall the specifics, if he did or if he  
19 didn't. So I don't want to say something that  
20 would be misleading so --

21 Q. Okay. So you don't recall him advising  
22 you to take the Kenalog?

23 A. I don't, no.

24 Q. Okay. You just think that he was in

1 the room while it was being administered?

2 A. Yes. And I think they knew about it  
3 and they were aware of it and they probably  
4 overlooked it because they were sympathetic to the  
5 issues they knew that I was having with my feet.

6 Q. But you're assuming that?

7 A. I am.

8 Q. There was no discussion about how you  
9 got it or anything along those lines?

10 A. Yeah. To the best of my recollection,  
11 no.

12 Q. Was Roseann Morrison the female  
13 podiatrist?

14 A. Yes, that's her name.

15 Q. When you were previously at Doctors  
16 during medical school, was that the rotation that  
17 you failed?

18 A. No.

19 Q. Was your rotation there cut short?

20 A. At Doctors?

21 Q. Yes.

22 A. Not that I recall.

23 Q. Do you recall anyone from Doctors  
24 asking you to leave or anything like that?

1 A. No.

2 Q. Okay. So as far as you know, you left  
3 voluntarily at the end of --

4 A. Yes. I did my rotations and then moved  
5 on to the next facility.

6 Q. Where was the rotation then that you  
7 had failed while you were in medical school?

8 A. It was in Kansas City. It was an  
9 internal medicine rotation.

10 Q. Where in Kansas City was that?

11 A. Independence.

12 Q. That's where I lived when I was born.

13 A. That's where David -- or David Cook is  
14 from, that area, Independence, Blue Springs.

15 Q. Yeah, I was born at the hospital where  
16 Truman died.

17 A. Truman Medical Center, right?

18 Q. I don't think it was called that then.  
19 General Hospital or something like that.  
20 Anyway --

21 A. Small world.

22 Q. Okay. So it was internal medicine in  
23 Independence, Missouri?

24 A. Uh-huh.

1 Q. And what was the name of the hospital?

2 A. It wasn't. It was a private practice.

3 Q. Okay. What was the private practice?

4 A. I don't remember the name of the  
5 practice itself, but I believe the physician I  
6 worked with was a Dr. Johnson.

7 Q. Now, when you failed that rotation,  
8 were you on some sort of probation then? Or did  
9 that affect your status with the medical school?

10 A. Well, it delayed -- it was going to  
11 delay my graduation by a few weeks as I needed a  
12 certain required number of weeks of training. And  
13 so I was actually supposed to take vacation prior  
14 to my graduation. Instead I had to find another  
15 rotation to finish.

16 Q. Okay. Other than your residency in  
17 Missouri and the anesthesiologist residency with  
18 Doctors, have you ever been terminated by any  
19 other employers?

20 A. California terminated me.

21 Q. And you're talking about when you  
22 didn't have the Boards passed?

23 A. Right.

24 Q. Was there any other reason why you were

1 terminated in California?

2 A. No. Just that I didn't have a license.

3 Q. Any other employers that have  
4 terminated your employment involuntarily other  
5 than when you left voluntarily?

6 A. Nothing that I can recall.

7 Q. When we talked about earlier -- just  
8 jumping back a little bit. I apologize.

9 We talked earlier about when you were  
10 at Creighton and they put you on a leave. Did  
11 they tell you what type of leave that you were  
12 being placed on?

13 A. They may have. I don't -- again, it's  
14 been a long time so I don't remember.

15 Q. And at that point, which is February of  
16 1996, had you already applied to medical schools  
17 when you left Creighton?

18 A. I believe I had, yes.

19 Q. Do you remember when you applied to  
20 medical schools?

21 A. Well, as there were two different  
22 types, the M.D., the allopathic route, and the  
23 D.O., I applied to numerous ones. And depending  
24 on the deadlines and things like that, I may have



1 applied -- I think the M.D.s had an earlier  
2 decision process, so I had applied to some M.D.  
3 schools earlier. And then I applied to some D.O.  
4 schools later as, again, the timeline and things  
5 like that.

6 Q. Do you think that you had already been  
7 admitted to medical school at the time that you  
8 were put on leave at Creighton?

9 A. I may or may not have. I don't believe  
10 I was. I think I received a notice of acceptance  
11 to Des Moines after February.

12 Q. Okay. We were talking earlier before  
13 we went on break about your, I guess, history  
14 around the time when you were at Doctors.

15 A. Yes.

16 Q. How long had you -- how long of a  
17 period did you self-prescribe the Ultram?

18 A. The Ultram was hit or miss. It was  
19 sporadic when I would prescribe it. I don't know  
20 how many times I prescribed it honestly before  
21 that period. I would say maybe just the one time.  
22 I really don't remember if I ever prescribed it  
23 before that.

24 Q. What was Dr. Berlet prescribing you for

1 pain?

2 A. I think that we were using over the  
3 counters for most of the pain relief with the  
4 thought process that we were going to have to go  
5 down surgery. He was going to try a few  
6 modalities before the surgical plan.

7 Q. What does that mean, "a few  
8 modalities"?

9 A. Things outside of surgery.  
10 Conservative treatment. He was going to do  
11 lithotripsy and see if that would work. Basically  
12 like shockwave lithotripsy. And if that didn't  
13 resolve the plantar fascitis and the orthotics, he  
14 was going to move to surgery fairly quickly as it  
15 had been bothering me for quite some time.

16 Q. What about after the surgery, did he  
17 prescribe anything for pain other than -- did he  
18 prescribe anything for pain at all?

19 A. He did, just postsurgical relief.  
20 Nothing of any long-term duration.

21 Q. What did he prescribe postsurgical?

22 A. Percocet.

23 Q. And do you remember how long you took  
24 that?

1 A. Probably less than two weeks.

2 Q. And then you continued to have pain  
3 after the surgery?

4 A. I did.

5 Q. Did you say you had two surgeries  
6 during your residency at Doctors?

7 A. I did.

8 Q. And when were those?

9 A. I believe the end of 2004 was the first  
10 one. It may have been early 2005. And I want to  
11 say that was on my left foot, but I may have  
12 the -- I may have the foots [sic] reversed. And  
13 then subsequently a few months later, they did the  
14 other foot in '05.

15 Q. And do you believe you were on Percocet  
16 after each surgery?

17 A. Yes. The second surgery I required  
18 OxyContin for just a few days as well.

19 Q. Did you discuss with Dr. Berlet after  
20 the surgeries that you still, you know, were  
21 continuing to have pain?

22 A. I believe so, yes.

23 Q. Did you ask him to prescribe anything?

24 A. I don't know what I asked him to do. I

1 sort of left the decision making in his hands.  
2 But I had expressed to him that the pain was so  
3 extreme that on numerous occasions I was suicidal.  
4 I had a plan to hurt myself. That I was under  
5 extreme duress from the pain. That I wasn't  
6 enjoying -- that I had a horrible quality of life.  
7 So numerous issues related to the severity of the  
8 pain. I may or may not have asked for pain  
9 relief. I'm sure I did. I said, I can't be in  
10 this pain forever or I'm going to end my life. I  
11 know I said that to him. And I don't think pain  
12 medications were discussed even though I had said  
13 that's essentially what I was seeking out his  
14 treatment for.

15 Q. Did you tell him that you were talking  
16 the Ultram?

17 A. At the time I had told him that I had  
18 self-prescribed medications on numerous occasions  
19 because I was just trying to get any sort of  
20 relief that I could, either from the depression or  
21 from the pain.

22 Q. Did you tell him what you had  
23 self-prescribed?

24 A. I believe I did.

1 Q. What was Dr. Berlet's response, if any,  
2 to the fact that you were self-prescribing?

3 A. I don't know. I think his response  
4 was, you know, let's try this -- these treatment  
5 modalities and see if we can help your pain by  
6 doing this lithotripsy. And if not, we'll move to  
7 surgery.

8 Q. Are you still seeing Dr. Berlet?

9 A. No.

10 Q. Are you still having problems with your  
11 foot pain?

12 A. No.

13 Q. When did that stop?

14 A. About -- I would say a year after my  
15 last surgery both feet seemed to quiet down to the  
16 point that I didn't have much pain.

17 Q. And did you just have the two surgeries  
18 that we discussed?

19 A. On my feet?

20 Q. Yes.

21 A. No. I've had a total of six.

22 Q. When was the last surgery?

23 A. 2005.

24 Q. And that was while you were at Doctors?

1 A. Yes.

2 Q. When did you stop self-prescribing the  
3 Ultram?

4 A. I stopped everything. My sobriety date  
5 is 7-15-06. But prior to that, I believe the last  
6 time I had self-prescribed was the previous year  
7 in '05, which I subsequently talked to  
8 Dr. Hilliard about and was advised to not do.

9 Q. Did you stop self-prescribing the  
10 pain --

11 A. The Ultram.

12 Q. Okay.

13 A. Not the steroids.

14 Q. Well, the steroids you weren't  
15 prescribing? You were --

16 A. I was taking.

17 Q. Still. Okay. So after the  
18 conversation in about August of '05 with  
19 Dr. Hilliard and when he said stop doing it, you  
20 stopped?

21 A. I stopped the self-prescribing of  
22 Ultram, correct.

23 Q. And you started using Kenalog. And  
24 then the -- what was the one you used on one

1 occasion?

2 A. Celestone.

3 Q. Celestone on one occasion. Were you  
4 using anything else for pain during that time  
5 period from August of '05 to July of '06?

6 A. Anything and everything  
7 over-the-counter I could get my hands on, so  
8 Tylenol and Ibuprofen in large doses.

9 Q. How much would you take?

10 A. I would max out on the ibuprofen every  
11 day. And probably max out on the Tylenol every  
12 other day. So probably about 4 grams of Tylenol  
13 every other day. And ibuprofen, 800 three times a  
14 day, so about 2,400 milligrams.

15 Q. When you say that you stopped using  
16 July 15, '06, what do you mean? What did you stop  
17 using?

18 A. Everything that was not prescribed to  
19 me by a monitoring physician except for  
20 over-the-counters.

21 Q. So you continued to use  
22 over-the-counter Advil, Tylenol?

23 A. Right. But less -- at a much lower  
24 dosage and a much lower frequency.

1 Q. During your residency at Doctors, we've  
2 talked about the fact that you for a short time  
3 used OxyContin and Percocet, correct, after your  
4 surgeries?

5 A. Correct.

6 Q. That you self-prescribed Ultram up  
7 until about August of 2005, correct?

8 A. Correct.

9 Q. And then that you diverted Kenalog,  
10 you're not sure how many times. Maybe approaching  
11 ten?

12 A. Yes.

13 Q. And were there any other medications  
14 that you took during the time that you were a  
15 resident at Doctors? And Elavil, I guess. We  
16 talked about the Elavil.

17 A. I stopped taking Elavil after '03.  
18 It's far too sedating to be on.

19 Q. So you were not using Elavil at all  
20 while here. Were you taking anything for  
21 depression while you were a resident at Doctors?

22 MR. MEZIBOV: You were shaking your  
23 head while Alison was asking the question. The  
24 question was about Elavil, and I don't think there



1 was a response.

2 A. I stopped taking Elavil as of '03.

3 And, no, I was not on any antidepressants while at  
4 Doctors.

5 Q. Were you on any other medications while  
6 you were a resident at Doctors other than the ones  
7 that I just listed?

8 A. Just over-the-counters.

9 Q. Nothing else?

10 A. No.

11 Q. What about since July 15th of '06, what  
12 medications have you taken? You've told me you've  
13 taken some over-the-counter pain medication.

14 A. Sure.

15 Q. What else?

16 A. I was prescribed an antidepressant by a  
17 psychiatrist.

18 Q. And what was that?

19 A. We started with a couple different  
20 ones. Initially I was diagnosed with bipolar  
21 which was later changed to major depression. And  
22 so they had treated me initially with something  
23 called Symbyax for bipolar. It was just for a  
24 short period of time. And it was later changed to

1       Celexa. And then I'm trying to think of the other  
2       medication. There was another one in there, but I  
3       was having some issues with side effects. And  
4       then eventually we came to Effexor.

5       Q.           Effexor?

6       A.           Uh-huh.

7       Q.           And that's what you're taking now?

8       A.           I'm not on any right now. I was  
9       discharged a little while ago from the  
10      psychiatrist's office per the Medical Board's  
11      guidelines. And he does not think that I -- I'm  
12      mood stable and he doesn't think that I need  
13      antidepressants at this point.

14      Q.           When did you stop taking Effexor?

15      A.           Well, I had stopped with him. And I  
16      did actually go back on it recently with my  
17      primary care doctor just because I had noticed  
18      some fatigueability and lethargy and that was  
19      started back about two months ago.

20      Q.           The Effexor was?

21      A.           Yes.

22      Q.           But you're not taking it currently?

23      A.           No, I am taking it currently.

24      Q.           Okay.

1 A. Sorry.

2 Q. What's your current dosage of Effexor?

3 A. 75 a day. 75 milligrams a day.

4 Q. Okay. Any other medications that  
5 you've taken since July 15th of '06?

6 A. Just over-the-counters.

7 Q. Do you take anything for sleep?

8 A. I do, yes.

9 Q. And what's that?

10 A. Unisom.

11 Q. Have any of your healthcare providers  
12 expressed concern about you taking Unisom with  
13 your chemical dependency history?

14 A. No.

15 Q. Any other sleep medication that you've  
16 taken since July of '06?

17 A. I had taken some Trazodone earlier in  
18 the treatment plan, but didn't like the side  
19 effect. It had made me groggy the next day.

20 Q. Okay. Any other medications that  
21 you've taken since July of '06 that we haven't  
22 discussed?

23 A. Since July of '06 I took -- I had an  
24 issue with some back pain in September of last

1 year. I had gone out of town and had done some  
2 water sports and had injured my back. And I tried  
3 some conservative treatment for it. It didn't  
4 work. I called my monitoring physician, who is  
5 aware of my chemical dependency issue, and said,  
6 I'm not getting any relief. And so I was started  
7 on Vicodin for a short period of time, which I  
8 kept a log of and submitted to the Board. And  
9 then also destroyed the remainder of the pills  
10 that went unused in front of the Ohio Physicians  
11 Health Board.

12 Q. How long were you on the Vicodin?

13 A. About ten days.

14 Q. Who is your monitoring physician?

15 A. Dr. Susan Daab.

16 Q. Is she also your primary care  
17 physician?

18 A. Yes.

19 Q. How do you spell her last name?

20 A. It's D-A-A-B.

21 Q. Have you seen any other physicians -- I  
22 guess backing up. How long has Dr. Daab been your  
23 primary care physician?

24 A. I had seen her before -- I believe

1 before the chemical dependency issue one time.

2 And then she was very close to where I live, so I  
3 made her my monitoring physician after the Board  
4 restrictions. So I believe 2006 is when she  
5 became my monitoring physician in addition to my  
6 primary care physician.

7 - - - - -

8 Thereupon, Defendants' Exhibit 3 is marked  
9 for purposes of identification.

10 - - - - -

11 Q. Dr. Hall, we had talked previously  
12 about the issue that you had when you were first  
13 trying to get an Ohio license.

14 Do you remember that?

15 A. Yes.

16 Q. And you told me that there was  
17 ultimately a hearing surrounding the issue of the  
18 circumstances surrounding your residency ending in  
19 Missouri, correct?

20 A. Yes.

21 Q. And I've handed you what we've marked  
22 as Exhibit 3. And this is a report and  
23 recommendation that is based on a hearing before  
24 Sharon Murphy on August 24, 2005.

1 Do you recognize this document?

2 A. Yes.

3 Q. And is this the report and  
4 recommendation after the hearing on the issue of  
5 those circumstances surrounding your residency  
6 ending?

7 A. Yes.

8 Q. And if you'll look at, I guess, the  
9 third page from the end, it's labeled at the  
10 bottom OhioHealth/Hall 0087?

11 A. Okay.

12 Q. Underneath there where we've got the  
13 little stars there kind of in the middle of the  
14 page, these are the conclusions, I guess, of the  
15 hearing officer; is that correct?

16 A. Yes, it looks like it.

17 MR. MEZIBOV: Objection. You can  
18 answer. Answer as best you know.

19 A. Yes, to the best of my knowledge that's  
20 what that is.

21 Q. And was it your understanding that she  
22 had determined that you had been untruthful when  
23 asked by the hospital about why you missed your  
24 on-call shift?

1 A. Yes.

2 Q. And you had admitted that?

3 A. Yes.

4 Q. You just hadn't admitted that you were  
5 on more than cold medicine at the time?

6 A. Yes.

7 Q. But they went ahead and ultimately  
8 granted your license, correct?

9 A. Yes.

10 Q. And that was under a probationary  
11 period initially, correct?

12 A. Yes.

13 - - - - -

14 Thereupon, Defendants' Exhibit 4 is marked  
15 for purposes of identification.

16 - - - - -

17 Q. Handing you what we've marked as  
18 Exhibit 4, this is an entry of order before the  
19 State Medical Board of Ohio.

20 Do you recognize this?

21 A. Yes.

22 Q. And you see there on the last page  
23 where it's dated December 14, 2005?

24 A. Yes.

1 Q. And is this -- and go ahead and take a  
2 look at it. Is this the order granting your  
3 license at that time?

4 A. I believe.

5 Q. Go ahead.

6 A. I believe it is, yes.

7 Q. And then I guess it became effective 30  
8 days after mailing and notification of approval by  
9 the Board?

10 A. Right.

11 Q. And was it your understanding that  
12 initially your license would be suspended for 30  
13 days?

14 A. Yes.

15 Q. And then after that, you would be  
16 subject to probationary conditions for two years?

17 MR. MEZIBOV: Objection only to the  
18 extent the document speaks for itself.

19 Q. Was that your understanding?

20 A. To the best of my understanding, yes.  
21 I didn't know about the two-year aspect of it, but  
22 yes.

23 Q. Go ahead and look on the first page  
24 where it says probationary conditions. Do you see



1       where I'm reading under C?

2       A.           Yes.

3       Q.           Does that refresh your recollection --

4       A.           Yes.

5       Q.           -- as to whether you were on probation  
6       at that point?

7       A.           Yes.

8       Q.           Did OhioHealth or Doctors rather  
9       initially decide not to enter into another or a  
10      second year contract for your residency based on  
11      the issues you were having with the Medical Board,  
12      if you know?

13      A.           The second year issues, I don't know.  
14      That would be a CA3. I believe they entered into  
15      a CA3. And I don't know if there were issues with  
16      the Medical Board that were causing complications  
17      at the time.

18      Q.           Do you remember having to ask Doctors  
19      to renew your contract after they had initially  
20      decided not to?

21      A.           Can you be more specific as to the time  
22      period?

23      Q.           Sure.

24                               - - - - -

1                   Thereupon, Defendants' Exhibit 5 is marked  
2                   for purposes of identification.

3                   - - - - -

4                   Q.               I'm handing you what we've marked as  
5                   Exhibit 5. And this looks like a letter from you  
6                   to Dr. Hilliard dated March 1, 2006.

7                   A.               Okay.

8                   Q.               Do you recognize this?

9                   A.               Yes.

10                  Q.               Okay. What is this?

11                  A.               This is a letter that I wrote to  
12                  Dr. Hilliard to indicate that the action that he  
13                  had performed was predicated on an erroneous  
14                  document from the Medical Board.

15                  Q.               Okay. And what action had he taken?

16                  A.               He had decided not to renew my contract  
17                  for my senior year level year, which would be the  
18                  PTY4.

19                  Q.               Okay. So this would have been to renew  
20                  your contract in early '06?

21                  A.               That's correct.

22                  Q.               Okay. Because I think I had initially  
23                  said the second year, and that wouldn't have been  
24                  right. It would have been for the third year?

1 A. Third year, that's correct.

2 Q. And what was the error that the Ohio  
3 Board had made?

4 A. The Board had indicated that I had lied  
5 in my application to the Medical Board for  
6 licensure. That was not correct. The Board made  
7 a correction by an entry nunc pro tunc on February  
8 8 of 2006 that indicated that they had made a  
9 mistake and that it should have been corrected to  
10 read that I had lied to the program director at  
11 the time I was a resident in Missouri. And so  
12 they revised that.

13 Q. And Doctors then agreed to extend your  
14 contract for the third year?

15 A. Yes.

16 Q. Doctors' records indicate that you  
17 began the anesthesia residency program at Doctors  
18 on February 2, 2004?

19 A. I believe that's correct, yes.

20 - - - - -

21 Thereupon, Defendants' Exhibit 6 is marked  
22 for purposes of identification.

23 - - - - -

24 Q. Handing you what we've marked as

1 Exhibit 6, this is a Resident Contract between you  
2 and Doctors.

3 Do you recognize this?

4 A. Yes.

5 Q. And was this your first Resident  
6 Contract for the period beginning February 2, '04  
7 and ending February 1, '05?

8 A. Yes.

9 Q. Looking on the second page of Exhibit  
10 6, is that your signature dated February 2nd --  
11 I'm sorry, February 3, 2004?

12 A. Yes.

13 Q. So then the first two pages of Exhibit  
14 6, that's the first part of the Resident Contract,  
15 correct?

16 A. Yes.

17 Q. And then there's some addendums?

18 A. Yes.

19 Q. And then is that your signature then at  
20 the end of the first addendum? It's labeled at  
21 the bottom OhioHealth/Hall 0925? Is that your  
22 signature dated February 3, '04?

23 A. Yes.

24 Q. And then following that, there's an

1 Addendum A, correct?

2 A. Yes.

3 Q. And this is -- that's your signature  
4 then at the bottom of Addendum A?

5 A. Yes.

6 Q. And then following that is Addendum B?

7 A. Yes.

8 Q. And that's your signature there on the  
9 last page of Exhibit 6?

10 A. Yes.

11 Q. That one is dated, though, October 23,  
12 2004. Do you know why you signed Addendum B at a  
13 later date?

14 A. I believe there may have been some  
15 deficiencies in my progress that they wanted to  
16 address.

17 Q. So you were placed on an academic  
18 review. That would initially be for six months on  
19 November 23rd, '04?

20 A. Yes.

21 Q. What were the deficiencies or problems  
22 that led to being placed on probation or academic  
23 review?

24 A. Specifically I don't know all the

1        specifics. But I would be speculating that there  
2        may have been some performance issues or  
3        interpersonal issues that may have been at the  
4        core of the problem because as it reads, the  
5        academic review was to assess behavioral,  
6        interpersonal, professional competencies and  
7        skills related to the resident training program.  
8        So that would be my best guess.

9        Q.            Okay. Well, I don't want you to guess.  
10       Do you remember being placed on probation back in  
11       November of 2004?

12       A.            Yes.

13       Q.            Who informed you of that?

14       A.            I believe it was Dr. Zucco.

15       Q.            Do you remember anything that Dr. Zucco  
16       told you as far as why you were being placed on  
17       probation?

18       A.            Specifically, no. I think we had a  
19       discussion about some generalized reasons. And he  
20       gave me a performance evaluation and indicated  
21       that I was making progress, which was not as quick  
22       as other residents, but I was still progressing in  
23       a positive fashion.

24       Q.            Did you have any conversations with

1 anyone at Doctors other than Dr. Zucco about the  
2 fact that you were being placed on probation in  
3 October of '04 -- I'm sorry, November of '04?

4 A. I don't believe so. The only person  
5 that I may have had conversations with is  
6 Dr. Hilliard because his signature is on there  
7 next to mine. But I don't specifically remember  
8 talking with him about this. I may have signed  
9 this and then they gave it to Dr. Hilliard to sign  
10 as well.

11 Q. So you just assume that he knew about  
12 it based on the fact that he signed this?

13 A. Correct.

14 Q. Were you told by Dr. Zucco or anyone  
15 else that there were some issues with  
16 inappropriate interactions with staff and patients  
17 prior to November of '04?

18 A. Can you be more specific about  
19 inappropriate interactions?

20 Q. Well, first of all, were you -- was  
21 that discussed with you?

22 A. I believe that what had been discussed  
23 is sometimes I would have conversations in the OR  
24 and they thought that sometimes I lacked focus and

1       they wanted me to be less chatty. But nothing to  
2       the extent that there was anything inappropriate  
3       or abusive or of a context of a graphic nature or  
4       anything like that.

5       Q.           So as far as you recall, it was more  
6       about being chatty and not focusing when you were  
7       in the OR?

8       A.           Correct. Correct.

9       Q.           When you were placed on probation in  
10      November of '04, were you also required to undergo  
11      counseling?

12      A.           Yes.

13      Q.           And who did you go to counseling with?

14      A.           I believe his name was Dr. Kirkland,  
15      Robin Kirkland.

16      Q.           I'm sorry?

17      A.           A Dr. Robin Kirkland.

18      Q.           And how long did you attend counseling  
19      with Dr. Kirkland?

20      A.           I don't know specifically how many  
21      sessions. Maybe four or five sessions. I don't  
22      know if it was on a weekly basis or --

23      Q.           And that was something that you were  
24      required to complete in order to come off



1 probation?

2 A. Correct.

3 Q. And as far as you know, did you  
4 complete what you needed to do?

5 A. Yes.

6 Q. Did Dr. Kirkland recommend any further  
7 counseling for you?

8 A. No.

9 Q. Did Dr. Kirkland ever provide you with  
10 any sort of diagnosis?

11 A. Not that I'm aware of.

12 Q. Was the purpose of your counseling with  
13 Dr. Kirkland, as far as you know, related to this  
14 issue of inappropriate interactions?

15 A. It may or it may not have been related  
16 to that. I'm not sure what the exact nature of it  
17 was.

18 Q. Do you know why you were required to go  
19 to counseling?

20 A. It was something that they requested  
21 that I do.

22 Q. Did you talk to Dr. Kirkland about your  
23 issues with either depression or pain?

24 A. I'm not sure I discussed it with him.

1 I don't know if I felt comfortable enough at that  
2 time and to have that kind of dialogue with him.

3 Q. Just going back for a moment, you had  
4 earlier testified that you had conversations with  
5 Dr. Berlet indicating that you were at times  
6 suicidal?

7 A. Yes.

8 Q. Did Dr. Berlet ever refer you to any  
9 mental health care professional?

10 A. No.

11 Q. Did he ever suggest to you that you  
12 speak with your primary care physician about  
13 emotional issues?

14 A. No.

15 Q. Do you recall what Dr. Berlet's  
16 response was when you told him that you were  
17 feeling suicidal?

18 A. I believe it was have a hopeful  
19 outlook. Hopefully we can resolve the pain issues  
20 and that would take care of those feelings.

21 Q. Did you discuss with Dr. Kirkland that  
22 you had been feeling suicidal?

23 A. I don't know if I did or didn't. As I  
24 said, I may not have felt that I could approach

1       that subject with him.

2       Q.               Do you remember the topic of your  
3       counseling sessions with Dr. Kirkland?

4       A.               I really don't. I think I just went  
5       there and went through the motions.

6                       MR. MEZIBOV: Are we approaching a  
7       breaking point?

8                       MS. DAY: Sure, we can take a break.  
9       It's 12:41. How long do you want?

10                      MR. MEZIBOV: 45 minutes.

11                               - - - - -

12                      Thereupon, a luncheon recess is taken  
13       at 12:41 p.m.

14                               - - - - -

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Monday Afternoon Session

May 18, 2009, 1:51 p.m.

- - - - -

Thereupon, Defendants' Exhibit 7 is  
marked for purposes of identification.

- - - - -

Q. Now, Dr. Hall, I'm handing you what  
we've marked as Exhibit 7. Do you recognize this?

A. Yes.

Q. Is this a copy of your application to  
Doctors when you applied for the anesthesiology  
residency?

A. Yes.

Q. Is that your signature on the last page  
dated December 9, 2003?

A. Yes.

Q. And I notice that there isn't anything  
on here where you reference the residency in  
family practice.

Was there any discussion prior to your  
hire where you told anyone at Doctors about that  
residency?

A. I believe I did. I mean, there's also  
nothing in here about the California one. So, I

1 mean, they knew. They knew about the programs I  
2 had been in previously.

3 Q. Did you tell Dr. Zucco or anyone else  
4 at Doctors before you were offered the residency  
5 that you were no longer at the -- or no longer  
6 doing the residency in Missouri?

7 A. Yes.

8 Q. Who did you tell that?

9 A. That I was no longer training in  
10 Missouri?

11 Q. Yes.

12 A. I believe it was Dr. Zucco when I came  
13 for my interview.

14 - - - - -

15 Thereupon, Defendants' Exhibit 8 is marked  
16 for purposes of identification.

17 - - - - -

18 Q. Handing you what we've marked as  
19 Exhibit 8, and this is a copy of your Resident  
20 Quarterly Evaluation at Doctors. The top says a  
21 quarterly date of September 30, 2004.

22 Do you recognize this?

23 A. Yes.

24 Q. Is that your signature at the bottom

1 for resident's signature dated November 10, 2004?

2 A. Yes.

3 Q. And following the first page, there are  
4 three handwritten pages signed by Dr. Zucco, who  
5 is the program director.

6 Have you had a chance to review these  
7 pages prior to today?

8 A. I had seen these before today, yes.

9 Q. Did you see these at the time you were  
10 given your evaluation, this particular quarterly  
11 evaluation in November of '04?

12 A. I don't know if I saw this paperwork,  
13 but I know I discussed the evaluation with  
14 Dr. Zucco.

15 Q. In reading here on the top of the  
16 second page in the second sentence, it says, it is  
17 unanimously agreed that for his time in training,  
18 Adam has not reached his level of expectation.

19 Did I read that correctly?

20 A. Yes.

21 Q. And was that your understanding at the  
22 time you were given this evaluation, Exhibit 8?

23 A. Yes.

24 Q. And it was at this time that you were

1 placed on a six-month probation?

2 A. Yes.

3 Q. And this was the probation we had  
4 talked about earlier where you were sent to  
5 counseling with Dr. Kirkland?

6 A. Yes, that's correct.

7 - - - - -

8 Thereupon, Defendants' Exhibit 9 is marked  
9 for purposes of identification.

10 - - - - -

11 Q. Handing you what we've marked as  
12 Exhibit 9, this is another Resident Quarterly  
13 Evaluation of you while you were at Doctors. And  
14 this one's quarterly date at the top is December  
15 31, 2004.

16 Is that your signature at the bottom  
17 dated January 7th, '05?

18 A. Yes.

19 Q. Do you recall receiving this  
20 evaluation?

21 A. I do believe I received it. I mean, I  
22 signed it, so yes.

23 Q. Do you recall this, receiving this  
24 evaluation?

1 A. Yes.

2 Q. And at that point, was it determined  
3 that you would remain in the probationary status  
4 as it had been previously determined?

5 A. I believe so, yes.

6 Q. So your first Resident Contract with  
7 Doctors we talked about before, Exhibit 6, that  
8 expired February 1, 2005; is that correct?

9 A. Yes.

10 Q. But Doctors issued another contract to  
11 you following the first year?

12 A. Yes.

13 - - - - -

14 Thereupon, Defendants' Exhibit 10 is  
15 marked for purposes of identification.

16 - - - - -

17 Q. Handing you what we've marked as  
18 Exhibit 10, this is another Resident Contract  
19 between you and Doctors. And this one is for the  
20 period February 2, '05 to February 1, 2006.

21 Do you recognize this?

22 A. Yes.

23 Q. And is that your signature on the  
24 second page dated January 26, 2005?



1 A. Yes.

2 Q. And then similar to the first contract,  
3 there's an addendum following the first two pages?

4 A. Uh-huh. Yes.

5 Q. And is that your signature following  
6 that addendum at the bottom of the page that's  
7 labeled, Bates labeled 0990?

8 A. Yes.

9 Q. And then following that, there's an  
10 Addendum B. It's page 0991 at the bottom. Do you  
11 see where I am?

12 A. Yes.

13 Q. And this Addendum B relates to the fact  
14 that you were on probation at that time which was  
15 to be from November 23rd, '04 to April 23rd, '05?

16 A. Yes.

17 Q. And that's your signature there on the  
18 last page?

19 A. Yes.

20 Q. And that's the same probation that was  
21 later added to your first year contract, correct?  
22 It's the same thing?

23 A. Yes, it looks similar.

24 Q. Do you recall an incident in September

1 of '05 when some syringes were found in one of the  
2 locker rooms with your -- with AH?

3 A. Yes.

4 Q. And were you questioned about that?

5 A. Yes.

6 Q. And who questioned you?

7 A. Well, initially there was some  
8 suspicion in the department as to drug use. And I  
9 came forward and said that it had been mine. It  
10 had been my syringe that had fallen out of my  
11 pocket.

12 Q. Who did you talk to about it?

13 A. I believe it was Dr. Furbee, but it may  
14 have been another attending.

15 Q. Was there one syringe or two?

16 A. Two.

17 Q. So there was -- your recollection is  
18 that there was just some kind of talk in the  
19 department of drug use. That's how you found out  
20 about it?

21 A. Yes.

22 Q. And what did you tell Dr. Furbee?

23 A. It may or may not have been Dr. Furbee,  
24 but whoever I spoke with, I told him that it had

1       come out of my pocket.

2       Q.               That both of them had?

3       A.               Yes.

4       Q.               Do you know what had been in the  
5       syringe?

6       A.               The first one was labeled  
7       Neo-Synephrine.

8       Q.               And was that what had been in the  
9       syringe prior to you dropping it?

10      A.               Yes.

11      Q.               And what about the other syringe?

12      A.               It was empty. There was nothing in it.

13      Q.               So did you drop both syringes? I'm  
14      confused.

15      A.               Yes.

16      Q.               Did you drop one of them on purpose to  
17      see what would happen?

18      A.               Yes.

19      Q.               Did you drop one on accident first, or  
20      how did it happen?

21      A.               Yes. I was in the bathroom. I know I  
22      had a syringe in my pocket. I had just come from  
23      an ICU patient. As part of the transport of an  
24      ICU patient, we kept presser agents in a case. If

1       their vitals were unstable, we could give them  
2       something. I was coming back from -- it was a  
3       long case and I had taken just a few minutes to go  
4       to the bathroom in between the next case. And  
5       when I bent over, the syringe fell out of my  
6       pocket.

7       Q.               Did it fall into the toilet?

8       A.               Yes. Yes. And I didn't put my hand in  
9       to grab it out. And by the time it had  
10      circulated, the syringe had gone down. So I  
11      didn't immediately report to anyone because I  
12      wasn't really sure what had happened to the  
13      syringe. I thought that it had just flushed into  
14      the pipes and was gone and it was really not an  
15      issue. It was not a narcotic and I thought it was  
16      gone into the septic system.

17                    It floated back through a few days  
18      later. And when someone found it and said what's  
19      this, I came forward and said that it was an  
20      accident. It had fallen out of my pocket.

21                    One of the attendings felt the story  
22      was unlikely. And so to try and recreate the  
23      incident, I went into the bathroom with a syringe,  
24      not using the best judgment, and I flushed it. It

1       went up again. Thinking it was going to come back  
2       fairly quickly, it didn't. And I -- a few days  
3       later it came out. And I said, yeah, that's what  
4       I thought. I tried to save face and instead made  
5       the situation worse.

6       Q.               There had been nothing in the second  
7       syringe?

8       A.               No.

9       Q.               Who did you talk to after the second  
10      syringe incident?

11      A.               I believe Dr. Hilliard was made aware.  
12      I'm not sure if he was made aware after the first  
13      syringe or after the second syringe. But I did  
14      talk with him, told him what had happened. That  
15      it was, you know, a rash decision to put the  
16      second one in. The first one was an accident.  
17      And he sent me for urine drug testing.

18      Q.               Do you know what you were tested for at  
19      that point?

20      A.               I don't.

21      Q.               Do you know what the results were of  
22      that drug test?

23      A.               They were negative for opiates or any  
24      sort of narcotics.

1 Q. Then in October of 2005, do you recall  
2 an incident where there had been a complaint about  
3 you throwing a bloody sponge?

4 A. Yes.

5 Q. Who did you throw that at?

6 A. The incident was between myself and a  
7 scrub tech. I don't know her full name. Christy  
8 was her first name.

9 Q. Christy?

10 A. Yes.

11 Q. So what happened on that incident?

12 A. Well, what had happened was I had a  
13 patient who had had an A-line inserted. And I  
14 applied a pressure dressing when I had  
15 discontinued the line as the patient didn't need  
16 it for further monitoring.

17 In regards to it being a bloody sponge,  
18 there was a spot of blood on a 4-by-4 because I  
19 had put pressure on it as we were breaking down  
20 the OR, which post-op they were getting the  
21 patient ready for transport and waking them up,  
22 part of the procedure for breaking down the  
23 equipment is to throw out supplies that we don't  
24 need. And as this patient's bleeding had stopped

1 and it had been on there for a little while, I was  
2 removing the bandage. Christy was standing by the  
3 trash can. I had I want to say tossed, just was  
4 throwing the sponge away and it hit her.

5 I apologized for the situation, but  
6 apparently the situation escalated. And the  
7 sequence -- these events, I believe, make it sound  
8 like I was more flippant, but I don't believe  
9 that's how I was during that situation.

10 Q. Did you make a comment to her to the  
11 effect of, those are hospital-issued scrubs; if  
12 you get blood on it, you can wash it off?

13 A. I may have said that afterwards, it's  
14 not a big deal, which I obviously minimized the  
15 situation.

16 Q. You obviously what?

17 A. Minimized the situation.

18 Q. So were you throwing it at her like  
19 playfully, or were you trying to get it in the  
20 trash?

21 A. I was throwing it out in the trash can.

22 Q. And she just --

23 A. In proximity.

24 Q. Okay. So who -- I assume someone came

1 to talk to you about that incident?

2 A. I'm not sure who I spoke with. It  
3 might have been Dr. Werhan who had come at the  
4 time and got my side of the story. But I don't  
5 recall who I spoke with.

6 Q. Was it discussed with you by anyone at  
7 Doctors there was concern about your actions from  
8 an infection control standpoint?

9 A. I don't know if someone from infectious  
10 disease spoke with me. I don't recall that.

11 Q. Do you recall being told that you  
12 shouldn't be throwing bloody sponges near people  
13 or something like that?

14 A. There may have been discussion to that  
15 extent.

16 Q. Do you remember being reprimanded for  
17 doing that?

18 A. Yes, I believe.

19 Q. Were you asked to begin biweekly  
20 counseling sessions with a behavioral specialist  
21 at that point?

22 A. I may have been asked to begin that,  
23 but I don't know when they were going to start  
24 that. I don't recall when they were going to



1 start doing those biweekly evaluation or  
2 counseling sessions.

3 Q. So did you go to counseling with anyone  
4 other than Dr. Kirkland?

5 A. I did.

6 Q. Who else was that?

7 A. Dr. Jeri O'Donnell.

8 Q. And did you go to see Dr. Jeri  
9 O'Donnell as a result of the bloody sponge  
10 incident?

11 A. I think there might have been a series  
12 of events that led to them wanting me to have a  
13 behavioral evaluation by her. It may not have  
14 just been the sponge. It may have been the other  
15 issues.

16 Q. The other issues --

17 A. Just syringes that we talked about.

18 Q. The syringes. Anything else?

19 A. I would be speculating.

20 Q. Okay. How long did you go to sessions  
21 with Jeri O'Donnell?

22 A. I don't know the exact number of  
23 sessions or the exact time frame, but for a period  
24 beginning in 2006 until the end of my employment.

1 Q. Did you discuss with Jeri O'Donnell  
2 your issues with the pain with your foot?

3 A. Yes.

4 Q. And did you discuss with her issues  
5 with the substance abuse or chemical dependency?

6 A. I didn't discuss issues with the  
7 chemical dependency. I don't believe that I had  
8 raised it at the time, so it was not an issue.  
9 But I did bring up the chronic pain and depression  
10 issues.

11 Q. Did you talk to Jeri O'Donnell about  
12 the fact that you had been self-prescribing?

13 A. I may or may not have. I don't know if  
14 I did.

15 Q. Do you know if you talked with Jeri  
16 O'Donnell about the fact that you've been  
17 diverting steroids for your foot?

18 A. I may or may not have. I may have told  
19 her that I was having someone inject me for  
20 chronic pain, but I don't remember the exact  
21 specifics of our conversations.

22 Q. We had talked before about the fact  
23 that you had been diverting steroids for your foot  
24 for sometime even before you were at Doctors?

1 A. Right.

2 Q. Prior to the incident in April of '06,  
3 had you ever written them as a prescription for a  
4 patient and then went and gotten them for yourself  
5 versus just taking them?

6 A. Prior to this incident?

7 Q. Prior to the one in --

8 A. No.

9 Q. So I think I was pretty unclear about  
10 that. So prior to the April 13, '06 incident, you  
11 had never written them for a patient?

12 A. That's correct.

13 Q. Do you know whether Jeri O'Donnell gave  
14 you any particular diagnosis?

15 A. I don't. I don't know the assessment  
16 or diagnosis that she gave me.

17 Q. Do you know whether or not she -- did  
18 she refer you to any other mental health care  
19 providers?

20 A. No.

21 Q. Did she ever suggest that you seek  
22 treatment with anyone else for depression,  
23 suicide, that type of thing?

24 A. No. I think at the time I had

1 discussed the situation with her about my major  
2 depression. I knew I had depression. I don't  
3 know if it was diagnosed as major depression, but  
4 I discussed the situation with her. And I think  
5 she asked if I was still actively suicidal. And I  
6 said I have good days and bad days. I'm getting  
7 better. So I'm hopeful, and I don't think I'm  
8 going to go down that route.

9 So I think that the urgent issue or the  
10 consideration of an emergency-type situation where  
11 I might be more contemplative had been addressed.  
12 So I think she -- we may or may not have mentioned  
13 for me to seek counseling, but it would have been  
14 on a more informal basis for me to follow up on my  
15 own timeline.

16 Q. Did she ever suggest that you seek  
17 treatment to get medication for your depression?

18 A. I don't remember.

19 Q. But you don't think you talked with her  
20 about chemical dependency or addiction issues?

21 A. No. I honestly was -- I didn't think I  
22 had an issue with chemical dependency. I was in  
23 denial up until that incident.

24 Q. And by "that incident," you mean the

1 incident in April?

2 A. In April of 2006, that's correct.

3 Q. How soon after that incident did you  
4 begin to believe that you may have a chemical  
5 dependency?

6 A. I was in denial for a couple of months  
7 afterwards. I had spoken with Dr. Hilliard upon  
8 termination that he advised rehab. Jeri O'Donnell  
9 had advised rehab, but not specifically what sort  
10 of rehab. I wasn't really sure myself if, you  
11 know, if there was -- what issue there was to  
12 address. But with some self-reflection, talking  
13 with family members, about six to eight weeks  
14 after the termination, I think, I was ready to  
15 enter into rehab.

16 Q. Did anyone other than Dr. Hilliard from  
17 OhioHealth tell you that they thought you should  
18 go into rehab?

19 A. Jeri O'Donnell did.

20 Q. Did anyone other than Dr. Hilliard as  
21 far as people that you knew in connection with  
22 your duties as an anesthesiology resident?

23 A. Let me understand that question. Ask  
24 me to go into rehab?

1 Q. Yes.

2 A. No. I was pretty much in denial. And  
3 I don't know if they ever noticed that. I tried  
4 to put on a calm face at work and was stoic, so I  
5 don't know if they ever knew the extent of the  
6 issues.

7 Q. You don't know if anyone at --

8 A. No, I don't.

9 Q. -- at Doctors knew you were chemically  
10 dependent?

11 A. Correct.

12 Q. Was the first time the issue of you  
13 being chemically dependent, the first time that  
14 that came up after the April 13th incident?

15 A. On a formal notification, you mean,  
16 like saying this -- let me understand the  
17 question. That there was more of a formal --

18 Q. No. When was the first time that the  
19 issue of you being or possibly being chemically  
20 dependent, did that come up with anybody at  
21 Doctors at any time before the April 13th  
22 incident?

23 A. No.

24 Q. After the April 13th incident, did the

1 issue of you being chemically dependent or  
2 possibly being chemically dependent or needing to  
3 go to rehab, was that discussed with anyone other  
4 than Jeri O'Donnell and Dr. Hilliard?

5 A. No. Let me correct that. I spoke with  
6 the EAP a month after being terminated because  
7 there was a window of opportunity for treatment,  
8 and I sought it with EAP. And they actually  
9 didn't want to listen to me.

10 Q. So you were permitted to use the EAP  
11 for a month after you were terminated?

12 A. Yes. I don't know if I was permitted  
13 to use them. I sought their counseling.

14 Q. And you didn't have to pay for it?

15 A. I never got a bill, let me put it that  
16 way.

17 Q. Who did you see through them?

18 A. I don't know. I don't know who the  
19 counselor was. I made an appointment and I went  
20 over and talked to him.

21 Q. Was that a man or a woman?

22 A. It was a man.

23 Q. And you met with him in person?

24 A. Yes.

1 Q. Were you no longer seeing Jeri  
2 O'Donnell at that point?

3 A. I was not.

4 Q. Why not?

5 A. I didn't have insurance. Financially I  
6 had no resources to speak of.

7 Q. And the man through EAP, you said he  
8 didn't want to listen?

9 A. Correct.

10 Q. Why do you say that?

11 A. We spoke for about five minutes and  
12 maybe a little bit longer and just didn't think he  
13 could help me. Didn't really offer me options  
14 so --

15 - - - - -

16 Thereupon, Defendants' Exhibit 11 is  
17 marked for purposes of identification.

18 - - - - -

19 Q. Handing you what we've marked as  
20 Exhibit 11, this is another evaluation of you  
21 while you were an anesthesiology resident at  
22 Doctors. This is for the -- it looks like for the  
23 first quarter of '05 through March 31st of '05.

24 Is that your signature on the second



1 page dated June 2, '05?

2 A. Yes.

3 Q. And was this given to you by Dr. Zucco?

4 A. Yes.

5 Q. And it looks like on the second page,  
6 he says you've been gradually improving over the  
7 past few months.

8 A. Is that a question?

9 Q. Yes. Is that what it says? I just  
10 want to make sure that's what it says.

11 A. It looks like that, yes.

12 Q. Do you remember receiving this  
13 evaluation?

14 A. Yes.

15 Q. What do you recall about it, I guess  
16 about your meeting with Dr. Zucco? I assume you  
17 met with him, right?

18 A. Yes.

19 Q. What do you remember about that?

20 A. I believe it was sort of a short  
21 evaluation, about five minutes. And he was  
22 recommending that I be advanced in my training.

23 Q. So at that point, were you taken off  
24 probation?

1           A.           I don't believe so. If you look at the  
2           contract, Exhibit 10, there was still a  
3           probationary period with the second year contract,  
4           or was this -- I'm sorry. This was in June of  
5           '05. I may have been taken off.

6           Q.           Your initial probationary period was  
7           supposed to be from November 23, '04 to April 23,  
8           '05. Do you know if that was ever extended?

9           A.           I don't. I don't think it was, but I  
10          may be wrong.

11                               - - - - -

12                       Thereupon, Defendants' Exhibit 12 is  
13          marked for purposes of identification.

14                               - - - - -

15          Q.           I'm handing you what we've marked as  
16          Exhibit 12. This is another quarterly evaluation  
17          of you. This one looks like it's for July '05  
18          through the end of September '05.

19                       Is that your signature on the second  
20          page?

21          A.           Yes.

22          Q.           Do you remember when you received this  
23          evaluation?

24          A.           I don't.

1 Q. Is this -- is the signature above yours  
2 Dr. Werhan?

3 A. Yes, it looks like his.

4 Q. Do you recall meeting with Dr. Werhan  
5 to discuss this evaluation?

6 A. I may have. I don't recall.

7 - - - - -

8 Thereupon, Defendants' Exhibit 13 is  
9 marked for purposes of identification.

10 - - - - -

11 Q. Handing you what we've marked as  
12 Exhibit 13, this is another quarterly evaluation  
13 of you. This one is for the quarter October 1  
14 through the end of December 2005.

15 And is that your signature on the  
16 second page --

17 A. Yes.

18 Q. -- dated, it looks like, 4-11-06?

19 A. Yes.

20 Q. And is this also signed by Dr. Werhan  
21 and Dr. Hilliard?

22 A. Yes.

23 Q. Do you recall receiving this evaluation  
24 in early -- sometime the first quarter of '06?

1 A. I don't recall receiving it, but  
2 apparently I did because my signature is on it.

3 Q. Do you recall any meeting where your  
4 performance was evaluated with Dr. Werhan and  
5 Dr. Hilliard in early '06?

6 A. In early '06? I know I had a series of  
7 discussions in '06 with Dr. Hilliard, but I don't  
8 know if it was related to this, to my  
9 competencies. I think it was more administrative.

10 Q. Do you remember discussion that you  
11 need to focus more and quit trying so hard to be  
12 everyone's friend and issues like that?

13 A. I know Dr. Werhan and I had spoken  
14 obviously on occasions outside of this where he  
15 wanted me to be more focused and diligent. And I  
16 applied his recommendations to the operating  
17 environment.

18 Q. So you recall him talking to you about  
19 getting distracted?

20 A. I think there were some occasions where  
21 we had talked about that, yes.

22 Q. During those -- any of those  
23 discussions with Dr. Werhan, did you ever call to  
24 his attention that any of your performance

1 deficiencies could have something to do with  
2 chemical dependency?

3 A. I don't think we ever spoke about  
4 chemical dependency, but we had a long talk about  
5 my underlying medical problems, foot problems. I  
6 told him what I had been going through. I don't  
7 remember when it was, but I had a very impassioned  
8 discussion with him about what was going on in my  
9 life.

10 Q. And that was the chronic pain?

11 A. Yes.

12 Q. I think we talked about that before.

13 A. Yes.

14 - - - - -

15 Thereupon, Defendants' Exhibit 14 is  
16 marked for purposes of identification.

17 - - - - -

18 Q. Handing you what we've marked as  
19 Exhibit 14, this is another contract. This one is  
20 a little bit different format, but it's another  
21 contract between you and Doctors for your final  
22 year of residency from February 2, '06 to February  
23 1, '07.

24 Do you recognize this document?

1 A. Yes.

2 Q. And is that your signature on the  
3 fourth page --

4 A. Yes.

5 Q. -- dated March 3, '06?

6 A. Correct.

7 Q. And then on the fourth page, is that  
8 your signature at the bottom on Addendum A?

9 A. Yes.

10 Q. And then the last two pages, these are  
11 designated as Appendix I at the top?

12 A. Okay.

13 Q. Are these the conditions of your  
14 probationary status with the Ohio Medical Board?

15 A. Yes.

16 Q. So did Doctors offer you this contract  
17 after the issue was cleared up with the Ohio  
18 Medical Board on your license?

19 A. Yes.

20 Q. And I think we already talked about how  
21 at that time, you were going to be on probation  
22 for a period after they gave you your license?

23 A. Right, for the two years.

24 Q. Right. And so this contract with

1 Doctors incorporated the same terms of your  
2 probation --

3 A. Yes, that's correct.

4 Q. -- with the Medical Board?

5 A. Yes.

6 Q. Did you understand that Doctors had the  
7 ability to terminate your contract if you were not  
8 fulfilling your performance expectations?

9 MR. MEZIBOV: Objection to the form of  
10 the question, but you can answer.

11 Q. I'll show you where it is in the  
12 contract. But I mean, before that, did you  
13 understand at the time you signed Exhibit 14 that  
14 Doctors could terminate your contract if you  
15 weren't meeting performance expectations?

16 MR. MEZIBOV: Same objection. You can  
17 answer.

18 A. As I understood it, the performance  
19 issues were being addressed to all parties'  
20 satisfactions. And that termination was an  
21 option, but we were working in a rehabilitative  
22 program.

23 Q. So it would be fair to say that when  
24 you entered into Exhibit 14, your understanding

1 was that you were going to be completing the third  
2 year?

3 A. Correct.

4 Q. And even though you knew that there  
5 were performance issues because those had been  
6 discussed with you, that you planned to work on  
7 them?

8 A. Yes.

9 Q. And that Doctors planned to continue  
10 working with you on those issues?

11 A. Yes.

12 Q. And did you understand that if you did  
13 not meet expectations, that they could terminate  
14 the contract?

15 MR. MEZIBOV: Objection. Same  
16 objection as before, form of the question.

17 A. Again, I had discussed the issues at  
18 hand. All parties were aware of my previous  
19 performance issues. I was contrite and expressed  
20 that I wanted to be compliant and work through the  
21 issues and that I appreciated their understanding  
22 of the issues.

23 So I do not believe that termination  
24 would be a formal action as I thought that we were



1 going to work through the issues.

2 Q. Okay. So you didn't think they were  
3 going to terminate your contract?

4 A. I didn't believe based on the evidence  
5 that I had provided them that that was a  
6 necessary --

7 Q. Based on what had happened up to the  
8 point that you had signed this?

9 A. Correct. I believed those issues had  
10 been addressed to our mutual satisfaction.

11 Q. What about going forward after March  
12 when this was signed, did you understand that --  
13 maybe I'm making it too complicated.

14 Did you understand that Doctors could  
15 terminate your contract based on things that you  
16 might do after March 3rd of 2006?

17 MR. MEZIBOV: Objection. Go ahead.

18 A. Can you just rephrase the question  
19 again for me?

20 Q. Sure. When you signed this contract on  
21 March 3rd of 2006, did you understand that Doctors  
22 could terminate the contract based on things that  
23 you did or didn't do going forward?

24 MR. MEZIBOV: Objection. You can

1 answer.

2 THE WITNESS: Okay.

3 A. Again, the issues that were in the past  
4 had been dealt with. I felt Doctors had  
5 addressed -- both Doctors and I had addressed the  
6 issues. We were making corrective action stance.  
7 I believed that Doctors had the right to terminate  
8 an employee, but that rehabilitation was the  
9 options that parties were going to pursue should  
10 anything happen. I was not formally anticipating  
11 a termination nor was I anticipating that I would  
12 be diagnosed with a chemical dependency issue.

13 Q. Okay. So did you understand that if  
14 you stole drugs from Doctors, that they would  
15 terminate your contract?

16 MR. MEZIBOV: Objection. You can  
17 answer.

18 A. Again, while my actions were improper  
19 and may or may not have been stealing, Doctors  
20 Hospital did have the -- hold on a second here. I  
21 need to think about answering this one. Okay.  
22 Rephrase the question for me one more time.

23 Q. I'll just ask it again. So did you  
24 understand that if you stole drugs from Doctors,

1 that they could terminate your contract?

2 MR. MEZIBOV: Objection. You can  
3 answer.

4 A. I don't believe that I fully understood  
5 the ramifications of my actions. So, no, I did  
6 not know that I would be terminated for this  
7 action.

8 Q. A moment ago you testified, "Again,  
9 while my actions were improper and may or may not  
10 have been stealing...." Do you recall that  
11 testimony?

12 A. Yes.

13 Q. What do you mean by "may or may not  
14 have been stealing"?

15 A. Well, it asked me to make a legal  
16 analysis and I'm not --

17 Q. I'm not certainly asking for your legal  
18 analysis. You're not claiming that you didn't  
19 steal drugs from Doctors, are you?

20 A. What I'm claiming is that I was under  
21 extreme duress at the time, I was in a lot of pain  
22 and I wasn't thinking properly, so what I did I  
23 know was improper.

24 Q. Are you claiming that you didn't steal

1 drugs from Doctors?

2 MR. MEZIBOV: Objection. It's  
3 argumentative.

4 MS. DAY: It's a question.

5 MR. MEZIBOV: It's argumentative.

6 Q. Are you claiming that you didn't steal  
7 drugs from Doctors?

8 A. What I'm claiming is that my actions  
9 may or may not be theft, but my actions were  
10 improper.

11 Q. Okay. Well, let's take stealing out of  
12 it. You admitted that you took drugs from Doctors  
13 that you didn't pay for and that weren't  
14 prescribed to you?

15 A. Yes.

16 Q. Did you read Exhibit 14 before you  
17 signed it?

18 A. Yes. That's Addendum A or are we  
19 talking about the entire contract?

20 Q. Well, we'll start with the entire  
21 thing. Did you read Exhibit 14?

22 A. Yes.

23 Q. Looking on the second page, the second  
24 paragraph, do you see where it says, "Should the

1       Resident, by action or inaction, commit or allow  
2       to occur any action or course of action, which the  
3       Institution reasonably believes involved moral  
4       turpitude, or is contrary to the interests of  
5       patient care or the general welfare of the  
6       Institution, the Institution may terminate the  
7       Agreement without prior notice"?

8       A.           Yes.

9       Q.           Did I read that correctly?

10      A.           Yes.

11      Q.           Would you agree that charging a patient  
12      for a drug that you were going to take yourself,  
13      and did take yourself, would be contrary to the  
14      interests of patient care or the general welfare  
15      of the institution?

16                   MR. MEZIBOV: Objection. If you're  
17      asking him to offer an opinion as to whether he  
18      violated the contract, there's an objection. I  
19      think that's what you're asking.

20                   You can answer as best you can.

21                   THE WITNESS: Okay.

22      A.           So rephrase the question again.

23      Q.           Sure. Would you agree that charging a  
24      patient for a drug that the physician then takes

1       himself is contrary to the general welfare of  
2       Doctors?

3                   MR. MEZIBOV: Objection. It assumes  
4       facts not in evidence. Go ahead.

5       A.           Yes, I believe the action would be  
6       contrary to the interests of the patients.

7       Q.           On the incident in question, which I  
8       guess we've established was on April 13, 2006,  
9       what did you do? How did you get the -- I've  
10      forgotten what it was.

11      A.           The Celestone?

12      Q.           Yes, the Celestone.

13      A.           What I did is I had the patient's  
14      information from a case that I had done earlier in  
15      the day. I used their information via a nurse. I  
16      gave that information to a nurse because I had  
17      written an order in the patient's chart. And I  
18      obtained the Celestone out of the Pyxis, which is  
19      the drug dispensing machine at the hospital.

20      Q.           So Pyxis, if I understand it correctly,  
21      is the system that tracks medication?

22      A.           Correct.

23      Q.           It keeps track of who is prescribing  
24      it, correct?

1 A. Correct.

2 Q. It keeps track of what patient it's  
3 being checked out to?

4 A. Correct.

5 Q. And it keeps track of kind of a count  
6 of what should be there, what goes in, what comes  
7 out?

8 A. Yes.

9 Q. So you, through a nurse -- do you  
10 remember which nurse it was?

11 A. I don't.

12 Q. So you, through a nurse, got the  
13 Celestone for a patient?

14 A. Yes.

15 Q. And at the time that you got the  
16 Celestone for the patient, I guess my question is  
17 were you intending all along to use it yourself?

18 A. Yes.

19 Q. And were they out of --

20 A. Kenalog?

21 Q. -- Kenalog?

22 A. Yes. It was a backorder. I believe  
23 the military may have been using it, so it was out  
24 of supply at the time.

1 Q. They were out of Kenalog, and you were  
2 in pain?

3 A. Yes.

4 Q. And so the Kenalog wasn't -- Pyxis  
5 wasn't used for the Kenalog?

6 A. Correct.

7 Q. So that's why you hadn't --

8 A. Gone that route before, that's correct.

9 Q. And so now the Kenalog is out. You're  
10 in pain. And so you decide to issue it to a  
11 patient or say you were issuing it to a patient so  
12 you could get the Celestone?

13 A. Correct.

14 - - - - -

15 Thereupon, Defendants' Exhibit 15 is  
16 marked for purposes of identification.

17 - - - - -

18 Q. We're handing you what we've marked as  
19 Exhibit 15. It says Physician Orders, Single Use  
20 Form. Is that your signature at the bottom?

21 A. Yes.

22 Q. Do you recognize this?

23 A. Yes.

24 Q. Was this the order for the Celestone



1       that we just talked about on --

2       A.           Yes.

3       Q.           I guess when did you find out that  
4       you'd been caught?

5       A.           Well, the nurse had asked me about it,  
6       about giving the medication. And I guess it was  
7       for a charting issue. And I said, don't worry  
8       about it, or I'll take care of it. I don't  
9       remember exactly what I said, but I had blown her  
10      off so that she wouldn't ask about it. And then  
11      maybe an hour or so later, Dr. Werhan came up to  
12      me and asked me what had happened to the  
13      medication, and I told him what had happened. I  
14      had basically taken the drug for myself as I was  
15      having a lot of pain. And he then mentioned that  
16      that might be considered fraud and told me to go  
17      rectify the situation immediately.

18      Q.           And did you then do something to  
19      rectify the situation?

20      A.           I went up to the pharmacy, told them to  
21      remove the charge from the patient's account.  
22      Gave them my insurance information and told them  
23      to charge me.

24      Q.           Were you planning on doing that before

1       you got caught, notifying the pharmacy to charge  
2       you?

3       A.               I was basically not really thinking  
4       about anything except trying to get the pain  
5       relieved. I was hoping to try and get it through  
6       the pharmacy, as I had called them earlier, and I  
7       couldn't procure it through a single dose vile  
8       because they only prescribed it, I want to say, in  
9       like a 10 cc bottle for pediatrics. And they had  
10      mentioned that it was in the Pyxis in single dose  
11      syringes.

12                   And so I just wanted to expedite things  
13      to get it because I just wanted to get out of pain  
14      as quickly as possible. So it may have been in  
15      the back of my mind that I was going to take care  
16      of things, but that was not my first thought.

17      Q.               And you were caught that same day,  
18      right?

19      A.               Correct.

20      Q.               So what's the difference between the  
21      Celestone and the other one, Kenalog? What's the  
22      difference between Celestone and Kenalog?

23      A.               I don't think there's much of a  
24      difference. They're just different types of

1       steroids. But they are what they call  
2       glucocorticoids, which have a strong  
3       antiinflammatory effect plus the potential  
4       mood-altering effects as well.

5       Q.           What are the mood-altering effects?

6       A.           There's some euphoria. You usually see  
7       it in higher doses. But in my case with the  
8       underlying major depressive disorder, it was just  
9       any sort of relief from the pain caused me to be  
10      elated. So there were some mood-altering effects  
11      from the standpoint that I was no longer in pain.

12      Q.           Wouldn't that be true of any pain  
13      reliever?

14      A.           Not necessarily. These had a pretty  
15      potent effect. There was also some weight gain  
16      that can happen with the glucocorticoids. I mean,  
17      there's a whole host of effects.

18      Q.           Did you understand after Doctors  
19      terminated your contract that you had the ability  
20      to appeal it to a grievance committee?

21      A.           I did.

22      Q.           Were you familiar with the corrective  
23      action and resident grievance policy prior to  
24      utilizing it yourself?

1 A. Was I familiar with it?

2 Q. Yes.

3 A. I don't know if I was as familiar as I  
4 am now with it but --

5 Q. Had you read it?

6 A. The corrective action policy handout,  
7 no. I mean, I basically knew that I was going  
8 through some formal sanctions such as the  
9 probation and things like that so -- but I don't  
10 believe I read the corrective action policy word  
11 for word.

12 (A short recess is taken.)

13 Q. Going back to Exhibit 14, that third  
14 page under -- it's labeled 0750?

15 A. Yes.

16 Q. Under professional activity, the second  
17 paragraph, do you see where it says, "In the event  
18 the Resident has or becomes aware of any health  
19 condition which could potentially affect the  
20 Resident's ability to practice medicine, or if the  
21 performance of essential functions of his/her job  
22 requires reasonable accommodation in order to  
23 facilitate the Resident's continued practice of  
24 medicine or essential requirements of his/her job,

1 the Resident is required to immediately inform the  
2 residency Program Director and/or the VPME."

3 Did I read that correctly?

4 A. Yes.

5 Q. Did you believe while you were a  
6 resident at Doctors that you had a health  
7 condition that affected your ability to do your  
8 job?

9 A. Yes.

10 Q. Did you understand that per your  
11 contract, Exhibit 14, you were supposed to notify  
12 the program director or the VPME of that fact? I  
13 mean, I know it's here.

14 A. Sure.

15 Q. But whether or not you understood that  
16 I guess is what I'm asking?

17 A. Did I understand that, no.

18 Q. And you would agree that you did not  
19 notify the program director or the VPME of the  
20 health condition you had that was affecting or  
21 could affect your ability to practice medicine or  
22 do your job?

23 A. Yes, I would agree with that.

24 Q. Did you understand that one of the

1 terms of your probationary license with the state  
2 was to obey all laws and rules governing the  
3 practice of osteopathic medicine?

4 A. Yes.

5 Q. After the Kenalog was injected by --  
6 was it Dr. Davy?

7 A. Celestone.

8 Q. Yes, the Celestone was injected by  
9 Dr. Davy. Do you know what happened with the  
10 syringe?

11 A. I believe he had it. I don't know. I  
12 think he may have put it in the Sharps Container.

13 Q. You didn't dispose of it?

14 A. To the best of my recollection, no.

15 Q. What did you normally do with the  
16 syringe after you were done with it?

17 A. On the previous encounter you're  
18 talking about, or this one?

19 Q. I guess I meant in general.

20 A. In general I usually took supplies home  
21 and did the injection at home. I think I may have  
22 done one at the hospital, but I would usually put  
23 it in a Sharps Container. Or if I was home, I  
24 would just throw it in the trash.

1 Q. In the incident in September of '05  
2 when the syringe fell out of your pocket, what  
3 pocket did you have it in?

4 A. Front pocket.

5 Q. And how did it fall out, the one that  
6 fell out by accident?

7 A. When I bent over to flush the toilet,  
8 it was basically sitting in the pocket and fell  
9 forward.

10 Q. When you flushed?

11 A. Right.

12 - - - - -

13 Thereupon, Defendants' Exhibit 16 is  
14 marked for purposes of identification.

15 - - - - -

16 Q. Handing you what we've marked as  
17 Exhibit 16, this is a Doctors Hospital Department  
18 of Graduate Medical Education Corrective Ation and  
19 Grievance Policy.

20 Do you recognize this?

21 A. No. This is the first time I've seen  
22 this, I believe. Let me make sure. This is the  
23 first time I've seen this.

24 Q. Did you ever see a different version of

1 this Corrective Action and Grievance Policy?

2 A. A different version of this, no, not to  
3 my recollection.

4 Q. After -- well, I guess after Dr. Werhan  
5 approached you about the incident on April 13,  
6 2006, what happened after you -- and you told me  
7 you went up and talked to the pharmacy and  
8 switched over the drugs so that they wouldn't be  
9 charged to the patient?

10 What happened after that?

11 A. Can you be a little bit more specific?

12 Q. Sure. Were you allowed to finish your  
13 shift?

14 A. For that day?

15 Q. Yes.

16 A. This is for the day in question of  
17 the -- yes.

18 Q. Were you at the end of your shift at  
19 that point when Dr. Werhan approached you?

20 A. I believe so. I mean, to the best of  
21 my recollection, I believe I was allowed to  
22 finish. And I may be wrong. But to the best of  
23 my recollection, I was allowed to finish after I  
24 had taken care of the medicine through the



1 pharmacy.

2 Q. And when was the next that you heard  
3 more about the incident or what was going to  
4 happen with your employment?

5 A. A few days later.

6 Q. What happened?

7 A. I was called to the Medical Education  
8 Office and spoken with in regards to what had  
9 happened. And then a few days after that, I was  
10 terminated.

11 Q. Who was there in the office when you  
12 were called in?

13 A. To Medical Education, I believe it was  
14 Dr. Werhan and Dr. Hilliard.

15 Q. Just the three of you?

16 A. I believe Stacy Caster, who was one of  
17 the -- I don't know what her exact function was,  
18 maybe Dr. Hilliard's secretary or VP of residency,  
19 I don't know exactly her title, but I believe she  
20 was in the meeting, too.

21 Q. And what was discussed?

22 A. The discussion involved the  
23 inappropriate behavior that occurred. And then I  
24 was basically told to go to work and there would

1 be a decision a few days later.

2 Q. And at that point, did you explain --  
3 during that meeting, did you explain what had  
4 happened?

5 A. Yes.

6 Q. And then how did you find out that your  
7 contract was being terminated?

8 A. I was advised to go to Medical  
9 Education. They asked for my badge and my pager.  
10 And I was told to get my supplies, my personal  
11 belongings and vacate.

12 Q. Who told you that your contract was  
13 being terminated?

14 A. The formal notification I believe I got  
15 was from their internal attorney, Terri Meldrum.  
16 I don't remember who gave me the paperwork,  
17 whether it was Stacy or Dr. Hilliard, but someone  
18 in Medical Education informed me of that.

19 Q. Do you remember what date -- what was  
20 your last day when they told you to go home?

21 A. I don't. I know it was sometime around  
22 the end of April.

23 - - - - -

24 Thereupon, Defendants' Exhibit 17 is

1 marked for purposes of identification.

2 - - - - -

3 Q. Handing you what we've marked as  
4 Exhibit 17, this is a letter from Dr. Hilliard to  
5 you dated April 20, 2006.

6 Do you recognize this letter?

7 A. Yes.

8 Q. And in this letter, Dr. Hilliard  
9 notifies you that your contract was being  
10 terminated effective immediately?

11 A. Yes.

12 Q. Did you receive this in the mail?

13 A. I don't remember if it was in the mail  
14 or if I got it at work.

15 Q. And then in the last paragraph, he  
16 notifies you that you could request  
17 reconsideration to the Medical Education  
18 Committee?

19 A. Correct.

20 Q. And did you do that?

21 A. I did.

22 Q. And did you appear at that meeting on  
23 April 26th?

24 A. Yes.

1 Q. And what happened at that meeting?

2 A. I presented myself to the Graduate  
3 Medical Education Committee. I had spoken with  
4 Jeri O'Donnell prior to that. I was advised that  
5 I should ask for rehabilitation of some sort. I  
6 wasn't sure what rehabilitation I might have  
7 needed, but I informed them that I thought I  
8 needed rehabilitation or at least some sort of  
9 formal evaluation, and left it in their hands at  
10 that point.

11 Q. And you said earlier that you had also  
12 talked to Dr. Hilliard or he had said that he  
13 thought you needed some sort of --

14 A. At the end of that appeals committee,  
15 that's what he said.

16 Q. Okay. On that same day?

17 A. Yes.

18 Q. Okay. And so he told you that he  
19 thought you needed some sort of rehabilitation?

20 A. He did. And he said that he would  
21 advocate for my return should I complete a formal  
22 program. So we didn't discuss as to what type of  
23 rehabilitation, but just that there should be some  
24 corrective action taken.

1 Q. And that if you completed  
2 rehabilitation, that he would advocate for you?

3 A. Yes.

4 Q. Did you have any discussions with  
5 Dr. Werhan about going to rehabilitation or  
6 anything along those lines?

7 A. No. After the -- I don't believe I  
8 did. But after the termination and the appeals  
9 committee, I really had -- I didn't have any more  
10 communication with the hospital or anybody on  
11 staff.

12 - - - - -

13 Thereupon, Defendants' Exhibit 18 is  
14 marked for purposes of identification.

15 - - - - -

16 Q. Handing you what we've marked as  
17 Exhibit 18, this is another evaluation of you.  
18 And this one is signed at the second page dated  
19 March 16, '06.

20 Did you ever receive this evaluation?

21 A. I did.

22 Q. Do you know why it's not signed by you?  
23 Do you think there was a version that you signed?

24 A. There may have been. I don't know.

1 Q. But you do recall receiving this?

2 A. Yes, I do.

3 Q. What do you recall about that?

4 A. Can you be more specific?

5 Q. Yes. What about it do you recall? Who  
6 was there?

7 A. I don't remember who was there.

8 Q. But you just know that you received  
9 this?

10 A. Yes.

11 Q. Did you receive it while you were still  
12 a resident at Doctors?

13 A. I don't know if I was still a resident.  
14 This may have been something that showed up after  
15 the fact.

16 - - - - -

17 Thereupon, Defendants' Exhibit 19 is  
18 marked for purposes of identification.

19 - - - - -

20 Q. I'm handing you what we've marked as  
21 Exhibit 19. This is a letter from Terri Meldrum  
22 at OhioHealth to Patrick Smith dated March 6,  
23 2007.

24 Was Patrick Smith your attorney at one

1 point?

2 A. Yes.

3 Q. Have you seen this letter before?

4 A. Yes.

5 Q. And was this -- were you notified that  
6 prior to this -- I guess did you hear prior to  
7 this that OhioHealth was -- or Doctors Hospital  
8 was denying your request to return?

9 A. Prior to this letter?

10 Q. Yes.

11 A. No.

12 Q. After you appeared before the committee  
13 requesting that they reconsider the termination of  
14 your contract -- here we go.

15 - - - - -

16 Thereupon, Defendants' Exhibit 20 is  
17 marked for purposes of identification.

18 - - - - -

19 Q. I was a little out of order. Sorry  
20 about that. Handing you what we've marked as  
21 Exhibit 20, this is a letter to you from  
22 Dr. Hilliard. And this is where he's notifying  
23 you on May 3rd that the committee at Doctors had  
24 decided to uphold the termination of your

1 contract?

2 A. Yes.

3 Q. And is this letter how you were  
4 notified that the committee had decided to uphold  
5 the termination of your contract?

6 A. Yes.

7 Q. Did you receive this letter in the  
8 mail?

9 A. More than likely. I was no longer  
10 employed there so --

11 Q. After May 3rd, did you contact  
12 Dr. Hilliard, Dr. Werhan or anybody else at  
13 Doctors to make any other requests that they  
14 reconsider the decision to terminate your  
15 contract?

16 A. After this?

17 Q. Right. After May 3rd?

18 A. I'm not sure if I did or if I didn't  
19 specifically to them. I may have called other  
20 entities besides Doctors to try and fix the  
21 situation. But between the period of August and  
22 February, there was no reason to contact anybody  
23 because I was in a rehab program. I didn't have a  
24 license in the state and had to basically address



1       that issue.

2       Q.           And I understand that then later in  
3       2007, you asked to be reinstated?

4       A.           Correct.

5       Q.           But I guess then, and I think you may  
6       have already answered this, but just to make sure,  
7       during the period from May of '06 to August of '06  
8       when you went into rehab, do you recall any  
9       contact that you had with anyone else at Doctors  
10      or anyone at Doctors requesting that they  
11      reconsider the termination of your contract or  
12      things to that effect?

13      A.           I honestly can't remember. I don't  
14      believe I did.

15      Q.           You said, "I may have called other  
16      entities besides Doctors to try and fix the  
17      situation."

18      A.           Yes.

19      Q.           Who were you referring to?

20      A.           The AOA, The American Osteopathic  
21      Association, and the AOCA to see if I could get  
22      some help after going through rehab to see if  
23      there would be something down the road that they  
24      could help me with.

1 Q. And did you talk to anyone at either of  
2 those organizations?

3 A. I believe so, yes. I talked to the  
4 head of the AOA. I don't remember his name. And  
5 a lady named Joyce Obradavic. And I don't  
6 remember who I spoke to at the AOCA.

7 Q. And what did they tell you?

8 A. I really didn't get anywhere with them.

9 Q. Do you remember what they told you?

10 A. Well, the AOA -- I take that back. The  
11 AOA said that after going through rehab, that if a  
12 program would accept me, they would authorize the  
13 expansion of any program, osteopathic program, for  
14 an emergency slot so I could finish my year. The  
15 AOA was advocating for me to finish.

16 The AOCA said that basically they would  
17 do whatever the AOA recommended. But, again, I  
18 don't remember who I spoke to there. There were  
19 numerous people there I spoke with.

20 Q. So after your contract was terminated,  
21 then did you have to go before the State Medical  
22 Board again?

23 A. After the termination at Doctors, yes.

24 Q. And how did the Medical Board become

1       aware of what was going on?

2       A.               Well, the hospital reported the  
3       diversion incident to the Medical Board. About  
4       the time that they called me, I had already  
5       entered or was entering into rehab. So I told  
6       them that the issue was being addressed and I was  
7       going into rehab.

8       Q.               Did the Medical Board order you to  
9       submit to an examination at The Woods at Parkside?

10      A.               I don't know if they ordered me to do  
11      it. I believe that I was already on my way to do  
12      it, but I don't know if there was an order to do  
13      it.

14      Q.               But you did submit to a three-day  
15      examination at The Woods at Parkside?

16      A.               Correct.

17                               - - - - -

18                       Thereupon, Defendants' Exhibit 21 is  
19      marked for purposes of identification.

20                               - - - - -

21      Q.               Handing you what we've marked as  
22      Exhibit 21, this is a Step I Consent Agreement  
23      between you and the State Medical Board.

24                       Do you recognize this?

1 A. Yes.

2 Q. Is that your signature on the last page  
3 dated August 30, 2006?

4 A. Yes.

5 Q. Looking on the second page of Exhibit  
6 21 at the top, E, do you see where this says,  
7 "Dr. Hall admits that the Board ordered him to  
8 submit to a three-day examination at The Woods at  
9 Parkside..."?

10 Does that refresh your recollection on  
11 whether or not the Board had ordered you to the  
12 examination?

13 A. Again, it's something in writing here.  
14 I don't remember if they ordered me. I knew I was  
15 aware of it and I told them I was entering into  
16 it, so it may be boilerplate. But I don't  
17 remember the exact sequence.

18 Q. Okay. It also says there that it was  
19 based on a self-report that you were terminated  
20 from the anesthesia residency program because you  
21 diverted for self-use.

22 Is that true, did you report it to --  
23 what had happened to the Board?

24 A. I believe that I talked with them prior

1 to the offense being reported by Doctors. But,  
2 again, I don't know if I talked to them before  
3 they got the report from Doctors or if I talked to  
4 them after.

5 Q. So then the Board suspended your  
6 license indefinitely at that point, correct?

7 A. Correct.

8 Q. When you went for your evaluation at  
9 The Woods at Parkside, did you tell anyone there  
10 that you had been terminated from a residency once  
11 for flushing an empty syringe?

12 A. I don't recall.

13 Q. Is that true? Were you ever terminated  
14 from a residency for flushing an empty syringe?

15 A. No.

16 Q. Sorry to back up, but I just found one  
17 of these that I didn't show you. I apologize.

18 - - - - -

19 Thereupon, Defendants' Exhibit 22 is  
20 marked for purposes of identification.

21 - - - - -

22 Q. Dr. Hall, I'm handing you what we've  
23 marked as Exhibit 22. I realize I'm way out of  
24 order here, but is this another one of your

1 Resident Quarterly Evaluations?

2 A. Yes.

3 Q. This one for the quarter ending April  
4 30, '04. Is that your signature at the bottom  
5 where it says resident's signature?

6 A. Yes.

7 Q. Dated June 24, '04?

8 A. Yes.

9 Q. And who gave you this evaluation?

10 A. It looks like Dr. Furbee's signature.

11 Q. Do you recall receiving this  
12 evaluation?

13 A. Yes.

14 Q. And do you recall discussion about your  
15 interpersonal skills at that point?

16 A. It's listed on there so --

17 Q. I know it's listed on there.

18 A. I imagine we talked about it, but I  
19 don't remember it in detail.

20 Q. Do you remember anything about this  
21 particular evaluation?

22 A. No.

23 Q. So after you finished with rehab, and  
24 we talked about how you worked for a while out of

1 state because you didn't have a license in Ohio?

2 A. Correct.

3 Q. And then you reapplied or applied to be  
4 reinstated at Doctors?

5 A. Correct.

6 Q. At the time that you applied for  
7 reinstatement at Doctors, you didn't yet have your  
8 license reinstated, correct?

9 A. No, I didn't.

10 Q. Why did you apply before your license  
11 was reinstated?

12 A. The issue that happened in 2007, it was  
13 late February when I put the application in. The  
14 Board had told me I was getting a Step II Consent  
15 Agreement early in February. When I was going to  
16 go before the Board, it was already done. All the  
17 paperwork had been done so it was going to be a  
18 rubber-stamp meeting. And what happened is the  
19 date of their board meeting was a snowstorm and it  
20 cancelled the board. It was like, they said, the  
21 first time in 30 years that it had happened that  
22 there was a snowstorm. So I had already put the  
23 application in. And so I hadn't received it, but  
24 I was anticipating I was going to receive it. And

1 it was supposed to be around the same time I got  
2 the license back. It just happened that the  
3 weather delayed things.

4 Q. And your attorney at the time, Patrick  
5 Smith, had wrote a letter to OhioHealth or Doctors  
6 asking that you be reinstated; is that correct?

7 A. Yes.

8 Q. Did you make any personal application  
9 yourself, you know, not through your attorney at  
10 that time?

11 A. No.

12 Q. And then you received Exhibit 19 that  
13 we already talked about. That was the letter  
14 dated March 6th?

15 A. Yes.

16 Q. After you received Exhibit 19 and you  
17 were notified that you weren't going to be  
18 reinstated, did you do anything to appeal that  
19 decision?

20 A. No. They said it was final and  
21 unappealable, so I proceeded forward for what I  
22 believe was an impermissible rehiring issue.

23 Q. Did you go to Doctors at all to talk to  
24 Dr. Blackwell?



1 A. No.

2 Q. Do you recall any conversation with  
3 Dr. Blackwell about the decision not to reinstate  
4 you?

5 A. Did I have any formal -- can you  
6 rephrase the question?

7 Q. Do you recall any conversation with  
8 Dr. Blackwell about the decision not to reinstate  
9 you in 2007?

10 A. No.

11 Q. Do you recall any conversation with  
12 anyone at Doctors other than Dr. Blackwell about  
13 the decision not to reinstate you in 2007?

14 A. No. All correspondence was through my  
15 attorney. I believe all correspondence was  
16 through my attorney. I don't remember any  
17 conversation with people.

18 Q. Did you go to Doctors, meaning  
19 physically enter the hospital, at all in 2007?

20 A. I believe so, yes.

21 Q. Okay. What was the purpose of that?

22 A. I believe I handed off the packet from  
23 Pat Smith to them, and I believe that was it.  
24 That was the only time.

1 Q. "The packet from Pat Smith," that being  
2 the request to reinstate you?

3 A. Correct.

4 Q. What was in that packet?

5 A. Documentation of a completed state  
6 Board approved rehab program. Recommendation  
7 letters from the addictionologists. And the  
8 consent agreements from the Medical Board along  
9 with Pat's letter.

10 - - - - -

11 Thereupon, Defendants' Exhibit 25 is  
12 marked for purposes of identification.

13 - - - - -

14 Q. I'm handing you what we've marked as  
15 Exhibit 23. And this is a copy of the Step Ii  
16 Consent Agreement between you and the State  
17 Medical Board.

18 Do you recognize this document?

19 A. Yes.

20 Q. And is that your signature on the back  
21 page dated March 5, 2007?

22 A. Yes.

23 Q. Is this the consent agreement under  
24 which your license was reinstated?

1 A. Yes.

2 Q. And there were certain conditions of  
3 that reinstatement, correct?

4 A. Yes.

5 Q. And that at the time you were, and  
6 still are, I guess, under probation with the State  
7 Medical Board?

8 A. Yes.

9 Q. And one of those conditions of your  
10 license is that you shall not, without prior Board  
11 approval, administer, personally furnish or  
12 possess, except as they except out, of which we'll  
13 go over in a second, any controlled substances as  
14 defined by state or federal law; is that correct?

15 A. That's correct.

16 Q. And that does not include drugs that  
17 are prescribed to you, you know, through the  
18 knowledge of your physicians. And we already  
19 talked about that. And you keep a log of those,  
20 correct?

21 A. Correct.

22 Q. Something I don't understand, how were  
23 you going to complete your anesthesiology  
24 residency without being able to administer,

1 personally furnish or possess any controlled  
2 substances?

3 A. The issue of training with controlled  
4 substances had been addressed prior to this  
5 restriction. I had to use narcotics in well over  
6 2,000 cases. There's guidelines for the  
7 osteopathic anesthesiology programs that tell  
8 residents how many cases they can do. I received  
9 the training that I needed prior to this  
10 restriction with narcotics.

11 As far as I had the qualifications for  
12 the job. And I believe that Doctors regarded me  
13 as disabled looking at this restriction. So I  
14 believe that I have the essential -- I have the  
15 qualifications for the duties of an  
16 anesthesiologist, but they regarded me as  
17 disabled.

18 Q. Well, I understand that's your claim in  
19 this lawsuit. I want you to logically describe to  
20 me how you were going to be an anesthesiology  
21 resident or an anesthesiologist under this  
22 restriction that you were not to administer,  
23 personally furnish or possess any controlled  
24 substance? How was that going to work, if you

1 know?

2 A. Well, if you're asking me how that can  
3 happen, there are numerous ways to get around this  
4 restriction. The first would be that as an  
5 anesthesia resident, we always have access to an  
6 attending. That's part of being a resident. So  
7 an attending has to be immediately available  
8 during a residency.

9 So during an induction, the anesthetic,  
10 the narcotics could be given by the attending. If  
11 during the case I deemed it necessary for a  
12 patient to get more narcotics, I could call the  
13 attending back in.

14 If there's an emergency situation, an  
15 emergency supercedes this restriction. So I would  
16 be determining whether or not an emergency --  
17 something had risen to the level of being an  
18 emergency that this patient would need narcotics.

19 Additionally, there are numerous ways  
20 to perform anesthesia without using narcotics  
21 during a case.

22 Q. Would you agree there are some patients  
23 who need narcotics in the practice of anesthesia?

24 A. I would agree that some patients need

1       narcotics.

2       Q.           In those cases, you would have gotten  
3       an attending?

4       A.           Yes.

5       Q.           So you wouldn't have been able -- and I  
6       understand that you have to have access to an  
7       attending as a resident?

8       A.           Correct.

9       Q.           I understand that. But if you were to  
10      go back and do an anesthesiology residency, you  
11      would need to have an attending present to  
12      administer any type of controlled substances?

13      A.           Correct.

14      Q.           And when you say that there are  
15      numerous ways to perform anesthesia without  
16      administering narcotics, you are saying that there  
17      would be -- not every patient would be using  
18      narcotics?

19      A.           Correct.

20      Q.           But you're not suggesting that you  
21      would use a different course of medication because  
22      you were not able to administer the narcotics? I  
23      mean, you're not suggesting that, are you?

24      A.           No. There are other types of cases

1       that are performed routinely that don't utilize  
2       narcotics.

3       Q.           You also, I think, said that if there  
4       was an emergency, that these restrictions  
5       wouldn't -- they would be superseded by the  
6       emergency?

7       A.           Correct.

8       Q.           Why do you say that?

9       A.           Well, to my understanding, that's how  
10      the Board -- I talked with the Board about that.  
11      I don't have that in writing. But to my  
12      understanding, I have discussed that with the  
13      Board and that is -- I don't want to say it's like  
14      a good samaritan, but basically if you see an  
15      emergency, you can react to it. You don't have to  
16      wait for somebody to come and give the narcotics.  
17      It would be like if somebody saw a fire, you don't  
18      have to wait for a firefighter to start fighting  
19      the fire.

20      Q.           When did they tell you that?

21      A.           A while ago. I don't remember who I  
22      spoke to.

23      Q.           Okay. So when you reapplied or you  
24      applied to have your residency reinstated, you had

1 envisioned that you would have an attending take  
2 care of at any time there's the use of or a need  
3 for a controlled substance?

4 A. Yes.

5 Q. And that otherwise you would only be  
6 able to administer anesthesia when it was other  
7 than a controlled substance?

8 A. Correct.

9 Q. I know you said it was routine to use  
10 noncontrolled substances. How much of the time  
11 did you use controlled substances versus not when  
12 you were an anesthesia resident?

13 A. Can you be a little bit more specific?

14 Q. I'm trying to figure out how much of  
15 the time as an anesthesia resident you were  
16 administering narcotics versus not?

17 A. During the course of a day, 8 hours  
18 worth of anesthesia or 12 hours or however many  
19 hours, we probably give narcotics less than a  
20 total of ten minutes. You frontload people at the  
21 beginning of a case and it takes you all of about  
22 15 seconds, or, I'm sorry, about 5 seconds to push  
23 the medication in. So then they've been given the  
24 narcotics and they last in the bloodstream for a



1 while. And if you need to redose, you can redose  
2 later. But, again, it's a very quick time span.

3 Q. As an anesthesia resident, you would  
4 have had access to controlled substances, right?

5 MR. MEZIBOV: Objection. You can  
6 answer.

7 A. Per this consent agreement, no.

8 Q. How would you not have had access? I  
9 mean, how would that work?

10 A. They were kept in the Pyxis.

11 Q. You obviously had no trouble getting  
12 them before?

13 MR. MEZIBOV: Objection. Is that a  
14 question?

15 Q. As an anesthesia resident, you or any  
16 other anesthesia resident has the ability to  
17 obtain narcotics?

18 MR. MEZIBOV: Objection. Go ahead and  
19 answer.

20 A. Based on this, I would be restricted  
21 from having access to them. As they're controlled  
22 substances, they're locked up per DEA guidelines.  
23 You have to have somebody check them out. So  
24 knowing my restriction, I would know that they're

1 not going to let me have access to this  
2 medication.

3 Q. You wouldn't be able to check them out  
4 for you or a patient, correct?

5 A. Correct.

6 Q. What would happen if, say, Doctors  
7 reinstates you, you finish your anesthesia  
8 residency and you're no longer a resident, could  
9 you, under this consent agreement, work as an  
10 attending?

11 MR. MEZIBOV: Objection. You can  
12 answer.

13 A. I've talked with the Medical Board.  
14 Pending approval into a program, they'll remove  
15 this restriction. It's a compliance issue. I was  
16 compliant. They were willing or they have done it  
17 before for others, they've lifted this restriction  
18 to allow them to continue to train. I talked with  
19 them. So as long as I'm in compliance, they're  
20 willing to lift it.

21 As far as speculating when I'm done,  
22 there might be accommodations made to have another  
23 attending or a nurse anesthetist give the  
24 narcotics. But I don't envision this being a

1 permanent restriction.

2 Q. But it hasn't been lifted as of yet?

3 A. It hasn't because I haven't been  
4 accepted back into a program.

5 Q. Well, has it been lifted?

6 A. I haven't asked to have it lifted.

7 Q. Would you agree that if this consent  
8 agreement, Exhibit 23, were in place, that you  
9 would not be able to work independently as an  
10 anesthesiologist?

11 MR. MEZIBOV: Objection. You can  
12 answer.

13 A. I would be speculating. I don't know.  
14 I know there are anesthesiologists who have  
15 restrictions who are able to work. It would be  
16 speculative at best.

17 Q. But you couldn't independently  
18 administer a controlled substance?

19 A. Correct.

20 - - - - -

21 Thereupon, Defendants' Exhibit 24 is  
22 marked for purposes of identification.

23 - - - - -

24 Q. Handing you what we've marked as

1 Exhibit 24, this is the letter to the State  
2 Medical Board of Ohio from Dr. David Goldberg  
3 dated October 16, 2006.

4 Do you recognize this?

5 A. Yes.

6 Q. And did Dr. Goldberg interview you for  
7 the purpose of evaluating your status and ability  
8 to return to a medical practice?

9 A. Yes.

10 Q. And Dr. Goldberg said that if you  
11 followed some conditions and recommendations, that  
12 he thought that you would be capable of practicing  
13 medicine, correct?

14 A. Yes.

15 Q. And one of those conditions that he  
16 felt needed to take place was counseling for a  
17 minimum of 6 to 12 months, correct?

18 A. Correct.

19 - - - - -

20 Thereupon, Defendants' Exhibit 25 is  
21 marked for purposes of identification.

22 - - - - -

23 Q. Handing you what we've marked as  
24 Exhibit 25, this is a letter to Danielle Bickers

1 of the State Medical Board of Ohio from

2 Dr. Victoria Sanelli --

3 A. That's correct.

4 Q. -- dated December 19, 2006? Do you  
5 recognize this document?

6 A. Yes, I do.

7 Q. And Dr. Sanelli said that she -- is it  
8 a she? She also believes that you're capable of  
9 practicing medicine under some conditions as well,  
10 correct?

11 A. Correct.

12 Q. Such as being monitored very closely by  
13 a supervising physician, correct?

14 A. Correct.

15 Q. And having drug screens and other  
16 continued meetings for chemical dependency, that  
17 type of thing, correct?

18 A. Correct.

19 Q. And she also says there that given your  
20 history of poor judgment in the past, she would  
21 advise that you not have ready access to  
22 controlled substances, correct?

23 A. Correct.

24 Q. Did you ever have any healthcare

1 provider suggest to you that you not practice  
2 anesthesiology?

3 A. To the best of my recollection, no.

4 Q. Did you ever discuss whether or not  
5 anesthesiology was a good career choice for  
6 someone with your history with any of your  
7 healthcare providers?

8 A. I may have. I don't recall.

9 - - - - -

10 Thereupon, Defendants' Exhibit 26 is  
11 marked for purposes of identification.

12 - - - - -

13 Q. Handing you what we've marked as  
14 Exhibit 26, this is a report from a Dr. Henry at  
15 Rush Medical Center in Chicago.

16 Do you recognize this document?

17 A. Yes.

18 Q. And were you evaluated by Dr. Henry on,  
19 or I guess beginning on January 9, 2007?

20 A. That sounds like the right date.

21 Q. And was this report something that was  
22 being submitted to the Missouri State Board  
23 regarding your license there?

24 A. Yes.

1 Q. I'm going to direct you to the second  
2 to last page. It's Bates labeled at the bottom  
3 18.

4 A. Okay.

5 Q. Now, Dr. Henry issued an opinion that  
6 there had been some sort of theme with your  
7 history relating to your inability to conduct  
8 yourself in an ethical and forthright manner?

9 MR. MEZIBOV: Objection to the  
10 characterization.

11 Q. Looking at the second sentence on the  
12 second to last page, do you see where it says,  
13 "The central theme appears to relate to Dr. Hall's  
14 inability to consistently conduct himself in an  
15 ethical and forthright manner."

16 Did I read that correctly?

17 A. Yes.

18 Q. And did Dr. Henry have an opinion that  
19 at the present time, it was not appropriate for  
20 you to be working autonomously?

21 A. Yes, that was his opinion.

22 Q. He didn't think you should be working  
23 in a setting where you did not have continuous  
24 access to supervision and mentoring, correct?

1 A. Yes, that's what his conclusion was.

2 Q. And he also didn't think that you were  
3 -- it would be appropriate for you to practice  
4 medicine at that time?

5 A. Correct.

6 Q. I'm looking now on the last page under  
7 No. 9. It was also his opinion that if in the  
8 future you were able to practice medicine, that  
9 you should not work in an emergency room or any  
10 other setting where you do not have consistent  
11 access to mentoring, monitoring and supervision,  
12 correct?

13 A. Yes.

14 MS. DAY: Why don't we take a little  
15 break.

16 THE WITNESS: Okay.

17 (A short recess is taken.)

18 - - - - -

19 Thereupon, Defendants' Exhibit 27 is  
20 marked for purposes of identification.

21 - - - - -

22 Q. Handing you what we've marked as  
23 Exhibit 27, the first page is a Charge of  
24 Discrimination, Charge No. 532-2007-00817 filed



1 with the EEOC.

2 Is that your signature on the bottom  
3 left dated March 19, 2007?

4 A. Yes.

5 Q. And this is a charge that you filed  
6 claiming that Doctors discriminated against you  
7 based on your disability by terminating your  
8 employment, correct?

9 A. Yes.

10 Q. And looking at the second page of this  
11 same exhibit, 27, this is a Dismissal and Notice  
12 of Rights that was signed by Daniel Cabot and  
13 dated May 9, 2007.

14 Have you seen this before? Do you  
15 recognize this?

16 A. Yes.

17 Q. And in this notice, which is also for  
18 charge 532-2007-00817, the EEOC was notifying you  
19 that your charge wasn't timely filed, correct?

20 A. Correct.

21 - - - - -

22 Thereupon, Defendants' Exhibit 28 is  
23 marked for purposes of identification.

24 - - - - -

1 Q. We're handing you what we've marked as  
2 Exhibit 28. The first page is a Charge of  
3 Discrimination. It was filed at least with the  
4 Ohio Civil Rights Commission, Charge No. 34398.

5 Do you recognize this?

6 A. Yes.

7 Q. And I notice that it's -- this, at  
8 least, copy is not signed. Was this something  
9 that you had filled out on-line?

10 A. No. I actually believe Marc and I  
11 worked on this.

12 THE WITNESS: Didn't we work on this?

13 MR. MEZIBOV: Answer the best you  
14 recall.

15 A. To the best of my ability, I worked  
16 with my attorney on drafting this. So the  
17 original may have had the signature on it. I  
18 don't know.

19 Q. Do you recall submitting a charge with  
20 the Ohio Civil Rights Commission on-line?

21 A. No.

22 Q. Okay. Looking at the second page, this  
23 is a Letter of Determination from the Ohio Civil  
24 Rights Commission dated February 21, 2008. And

1       this is for the charge, Ohio Civil Rights  
2       Commission, Charge No. 34398.

3                   Do you recognize this document?

4       A.           Yes.

5       Q.           And in this Letter of Determination,  
6       the Ohio Civil Rights Commission is letting you  
7       know that they've determined that there's no  
8       probable cause of determination based on the  
9       charge that you filed on an affidavit that you  
10      submitted on April 9, 2007?

11      A.           That's what their findings of fact  
12      says, yes, or the decision. Sorry.

13      Q.           That's okay. Now in this charge, the  
14      first page of 28, in this charge you're claiming  
15      that Doctors discriminated against you on the  
16      basis of your disability by refusing to reinstate  
17      you in March of '07, correct?

18      A.           I believe they regarded me as disabled.

19      Q.           That's what you're claiming in the  
20      charge?

21      A.           Yes.

22      Q.           Do you believe that you are, in fact,  
23      disabled under the law? I mean, do you have a  
24      belief one way or the other?

1 MR. MEZIBOV: There's an objection.

2 MS. DAY: That's okay.

3 A. Rephrase the question again for me.

4 Q. Do you believe that you are disabled?

5 MR. MEZIBOV: Objection. You can  
6 answer.

7 THE WITNESS: Answer did you say?

8 MR. MEZIBOV: As best as you can.

9 A. Yes.

10 Q. Looking at the third page now of  
11 Exhibit 28, this is a Dismissal and Notice of  
12 Rights from the EEOC.

13 Do you recognize this?

14 A. Yes.

15 Q. Dated July 26, 2008? That's when they  
16 mailed it anyway?

17 A. Okay. Yes, this looks familiar.

18 Q. And in this notice, the EEOC is letting  
19 you know that they have adopted the findings of  
20 the state agency?

21 A. Yes.

22 Q. And the findings of the state agency  
23 then would be the second page of Exhibit 28?

24 A. Yes.

Thereupon, Defendants' Exhibit 29 is marked for purposes of identification.

Q.               Handing you what we've marked as Exhibit 29, this is another Charge of Discrimination.

Is that your signature at the bottom  
dated August 6, 2007?

A. Yes.

Q. Based on the stamp, it looks like this was a charge filed with the EEOC. Do you recognize this document?

A. Yes.

Q. Do you know whether or not this charge is still pending?

A. I don't.

Thereupon, Defendants' Exhibit 30 is marked for purposes of identification.

Q.               Handing you what we've marked as Exhibit 30, these are your responses to OhioHealth's interrogatories in this case.

1 Do you recognize this document?

2 A. Yes.

3 Q. And is that your signature on the last  
4 page?

5 A. Yes.

6 Q. And did you work with your attorney in  
7 providing answers to the various written questions  
8 from OhioHealth?

9 A. Yes.

10 Q. Looking at the third page, in  
11 interrogatory No. 1, this is where OhioHealth was  
12 asking you to identify people that you believe may  
13 have knowledge relating to this case. Are you  
14 there on page 3? I just want to ask you about  
15 some of these people.

16 Looking at page 4, in response to  
17 interrogatory 1, there's a whole bunch of people  
18 listed. Do you see what I'm referring to?

19 A. Yes.

20 Q. Are these names you had provided to  
21 your attorney of people who may have knowledge  
22 regarding your claims?

23 A. Yes.

24 Q. Have you talked to any of these people,

1 and their names continue onto page 4 and 5, about  
2 being a witness for you in this case?

3 MR. MEZIBOV: Let me caution you,  
4 anything that you -- if you've had any discussions  
5 with these people and if you've had any  
6 discussions with these people as a result of  
7 communication with me in connection with my  
8 request, I'm directing you not to answer the  
9 question.

10 MS. DAY: So wait a minute. What?

11 MR. MEZIBOV: I just want to make sure,  
12 if you're asking him to disclose any communication  
13 he's had with witnesses in connection with any  
14 request I may have made to --

15 MS. DAY: You're not talking about  
16 conversations where you weren't present?

17 MR. MEZIBOV: Maybe. Why don't you ask  
18 him if he has.

19 Q. Have you had any discussion with any of  
20 these people about being a witness in this case?

21 A. Based on what March just said, I can't  
22 answer that question.

23 MR. MEZIBOV: You can answer whether  
24 you have. It's yes or no.

1 A. Yes.

2 Q. Who have you had conversation with on  
3 this list about being a witness in this case?

4 MR. MEZIBOV: You can answer the  
5 question as to whom -- with whom you've had a  
6 conversation, period.

7 A. In regards to this case, or just to be  
8 a witness for me?

9 Q. Who of these people have you had a  
10 conversation with in which you discussed with them  
11 being a witness in this case?

12 A. Dr. Sam Westenskow. Dr. Jaime Ruhl.  
13 Dr. Tony Zucco. Dr. Dan Blake and Dr. Nathan  
14 Hanflink.

15 Q. And Dr. Nathan --

16 A. Hanflink. That's supposed to be  
17 H-A-N-F-L-I-N-K.

18 MR. MEZIBOV: Before another question  
19 is asked, let me consult with you.

20 Q. I'm sorry. Was that it?

21 A. Yes.

22 Q. Okay.

23 (A short recess is taken.)

24 Q. Why do you believe that Dr. Sam



1 Westenskow might have information related to this  
2 case?

3 A. It's actually Westen, that's supposed  
4 to be an S, W-E-S-T-E-N-S-K-O-W. He was a  
5 resident in the program with me, and I maintained  
6 close contact with him as a friend.

7 Q. Okay. What information do you think  
8 that he has that might relate to your claims?

9 A. Sam and I were very close. And I think  
10 I shared with him and some of the other residents  
11 my issues that I was having, my medical issues.  
12 So I think they know about it. They may be  
13 character witnesses as well.

14 Q. What about Dr. Jaime Ruhl, who is that?

15 A. He was another resident.

16 Q. And what information do you believe  
17 Dr. Ruhl might have relating to your claims?

18 A. Same thing, close contact, personal  
19 information.

20 Q. What about Dr. Zucco, what information  
21 do you believe he might have?

22 A. Program director, he knew who I worked  
23 with before. Friend.

24 Q. And he wasn't the program director when

1 your contract was terminated?

2 A. Correct.

3 Q. And he wasn't the program director when  
4 your request for reinstatement was denied,  
5 correct?

6 A. Correct.

7 Q. And that was Dr. Werhan at that point?

8 A. Yes.

9 Q. For both?

10 A. Yes.

11 Q. Who's Dr. Daniel Blake?

12 A. He was a resident a year ahead of me.  
13 So, again, another colleague and friend.

14 Q. Any particular information that you  
15 believe he may have relating to your claims?

16 A. Again, just worked close with him.  
17 Character reference. Personal information.

18 Q. What about Dr. Reddy? What information  
19 do you believe that Dr. Reddy may have that  
20 relates to your claim?

21 A. Did I mention Dr. Reddy?

22 Q. Yes, on page 4 at the bottom.

23 A. Are you sure it wasn't supposed to be  
24 Dr. Hanflink?

1 Q. Did I skip him?

2 A. Dr. Reddy was one of the attendings at  
3 the program who gave me a reference to the Medical  
4 Board, a personal reference. I discussed at  
5 length some of my personal issues with him.

6 Q. Any particular knowledge relating to  
7 your claims that you believe he may have?

8 A. I'm not sure. He may.

9 Q. And then what about Dr. Hanflink, who  
10 is he?

11 A. He was, again, another senior resident,  
12 colleague, personal friend.

13 Q. Any particular information you believe  
14 he has relating to your claims?

15 A. Same thing. We had discussions at  
16 length about my health issues. I talked with most  
17 of the residents in the program about it.

18 Q. Dr. Trevor Davy, that's the podiatrist,  
19 right, who gave you the injection?

20 A. Yes.

21 Q. Other than the fact that he gave you  
22 the injection on April 13th, any other information  
23 or knowledge that you believe he has related to  
24 your claims?

1 A. I don't believe so.

2 Q. What about Dr. Furbee?

3 A. Anesthesia attending, close personal  
4 friend.

5 Q. What information do you believe that  
6 Dr. Furbee may have relating to your claims?

7 A. Knowledge of the chronic pain, chronic  
8 foot pain.

9 Q. And Stacy Caster, what information do  
10 you believe that she may have relating to your  
11 claims?

12 A. She was the residency coordinator. And  
13 I dealt with her on numerous occasions. I don't  
14 know beyond that. She may or may not have  
15 knowledge.

16 Q. Who's David Sullivan?

17 A. David Sullivan is the Ohio Physicians  
18 Health Program liaison that I coordinate with, so  
19 he's aware of my substance abuse program. He's  
20 the individual who coordinates my compliance with  
21 the Medical Board through Ohio Physicians Health  
22 Program.

23 Q. Okay. What knowledge do you believe  
24 that he would have relating to your claims?

1 A. About the substance dependence.

2 Q. Turning to page 6, in interrogatory 5,  
3 it's near the bottom of the page, this is where  
4 Doctors is asking you about the employers that  
5 you've attempted to secure employment with since  
6 April of '06.

7 And then in the answer, you've got  
8 several, 14, and different listings in response to  
9 Interrogatory No. 5.

10 Have there been any -- since you  
11 answered these interrogatories, in addition to  
12 these 14, are there any that you remember in  
13 addition to these 14 that you didn't at that time?

14 A. There may be more. The list was  
15 exhaustive. I called every hospital in the State  
16 of Ohio, every program in the State of Ohio, and  
17 programs outside of Ohio for anesthesia. And  
18 there were numerous declines because I'm not Board  
19 certified, so the list could be exhaustive.

20 Q. Do you keep a list anywhere of all the  
21 places you've applied?

22 A. Yes. I have actually a little booklet  
23 that I have of all the places that I've talked to.

24 Q. Well, make sure that you provide that

1 to your attorney.

2 A. Okay.

3 Q. In Interrogatory No. 7, this is on page  
4 9 at the bottom, here OhioHealth is asking you to  
5 identify income that you've received. And then  
6 you provide rough estimates for '06, '07 and '08?

7 A. Yes.

8 Q. In '06, what were the sources of your  
9 income? One was obviously Doctors?

10 A. Right.

11 Q. What other sources of income did you  
12 have in '06?

13 A. The urgent care in Ohio and the ER in  
14 Missouri.

15 Q. Anything else?

16 A. No.

17 Q. Did you end up earning more in '06  
18 working elsewhere, you know, places other than  
19 Doctors than you would have had you stayed in your  
20 residency?

21 A. Yes.

22 Q. Because your residency didn't pay a  
23 hundred thousand dollars a year?

24 A. No.

1 Q. I think it was -- do you recall what it  
2 was?

3 A. About \$46,000.

4 Q. Yes. It looks like Exhibit 14 on the  
5 second page, it says \$46,370. And then what were  
6 your sources of income in 2007?

7 A. County Wide Health. I take that back,  
8 it was a few shifts at -- in Missouri in January  
9 at the two ERs that I listed, Cedar County and  
10 Nevada. And then the rest of the year was at  
11 County Wide Health.

12 Q. And then what about in 2008?

13 A. That would Adam P. Hall, D.O.  
14 Incorporated.

15 Q. Have you had any sources of income  
16 since April 2006 other than the employment that we  
17 discussed at the beginning of your deposition?

18 A. No.

19 Q. Have any of the places that you have  
20 applied for employment since October of 2006  
21 indicated that they weren't going to hire you  
22 based on anything anyone at OhioHealth had told  
23 them?

24 A. I have not heard anything to that

1 effect.

2 - - - - -

3 Thereupon, Defendants' Exhibit 31 is  
4 marked for purposes of identification.

5 - - - - -

6 Q. Handing you what we've marked as  
7 Exhibit 31, this is a copy of the amended  
8 complaint in this case.

9 Do you recognize this document?

10 A. Yes.

11 Q. Looking at the fifth page, do you see  
12 where it says statement of claims, breach of  
13 contract?

14 A. Yes.

15 Q. And then in paragraph 24, it says,  
16 "Defendants' actions breached the terms and  
17 conditions of the employment contract between Ohio  
18 Health and Plaintiff."

19 Did I read that correctly?

20 A. Yes.

21 Q. Are you claiming in this lawsuit that  
22 Doctors breached the contract with you?

23 A. Yes.

24 Q. Okay. What contract are you claiming



1 that Doctors breached?

2 A. I would assume my senior-level  
3 contract.

4 Q. The --

5 A. Exhibit 14.

6 Q. You have a good memory if that's right.

7 A. Numbers I'm very good at. Yes, Exhibit  
8 14. It's attached to the complaint, too.

9 Q. It's attached to the complaint as  
10 Exhibit C, I think?

11 A. Yes.

12 Q. But it was also Exhibit 14 in this  
13 deposition?

14 A. Correct.

15 Q. Okay. What portions of Exhibit C are  
16 you claiming that Doctors breached?

17 MR. MEZIBOV: Objection. You can  
18 answer as best you can.

19 THE WITNESS: Okay.

20 Q. You can't ask your attorney to answer  
21 the question. You can tell me that you're not  
22 sure what provisions or you can explain it to me  
23 in your own words, but you can't take your break  
24 and ask your attorney about it. And I understand

1       that some people know what they're claiming and  
2       sometimes they don't. That's fine.

3               If you don't know where it is in  
4       Exhibit C, can you explain to me how you think  
5       Doctors breached their contract?

6       A.           Well, you know, I believe that the  
7       breach of contract came out of the provision where  
8       they stated that I violated my consent agreement  
9       with the Board where they say basically obey the  
10      law. That was their provision stated that they  
11      could terminate my contract.

12              Again, what I said earlier, my actions  
13      may have been improper, there may have been theft,  
14      I haven't been found guilty of any criminal  
15      activity. So that's where I think the breach came  
16      from.

17      Q.           Are you aware of any other way that you  
18      believe that Doctors breached any contract with  
19      you?

20      A.           Well, under federal EEO law, I believe  
21      that there was a duty to be provided  
22      rehabilitation. That would be part of the  
23      contract of an employer and I don't believe the  
24      federal protections applied either.

1 Q. Here, still in this Exhibit 31, your  
2 complaint, there's an attachment, Exhibit D.

3 A. Okay.

4 Q. This is an OhioHealth Human Resources  
5 Policy and Procedure, Fitness for Duty?

6 A. Correct.

7 Q. Do you recognize this document?

8 A. Yes.

9 Q. And this is a version of this policy.  
10 It says revised June 2005, correct?

11 A. Yes.

12 Q. How did you obtain a copy of this  
13 policy?

14 A. I went over to OhioHealth human  
15 resources at Grant or Riverside, I don't remember,  
16 and picked it up there.

17 Q. Who did you get it from?

18 A. I don't remember. Human resources, I  
19 assume.

20 Q. You don't remember any person in  
21 particular that you spoke with?

22 A. No.

23 Q. When did you get a copy of this?

24 A. I believe early 2007.

1 Q. So after you were terminated?

2 A. Yes.

3 Q. And what led you to request a copy of  
4 Exhibit D here, the Fitness for Duty policy from  
5 HR?

6 A. Let me revise that. I do believe I got  
7 this earlier than '07. I believe I got it in '06  
8 when I was at The Woods at Parkside. I believe I  
9 had talked with someone about EAP, things like  
10 that being offered, and I looked it up after I was  
11 released, procured it from HR.

12 Q. So it may have been '06?

13 A. It may have been, or '07. I'm not sure  
14 of the timeline.

15 Q. What led you to request a copy of the  
16 policy? Why did you request it?

17 A. Because in going through the rehab  
18 program, I had started to look up some things  
19 on-line and felt that there were some protections  
20 I was afforded under the law.

21 Q. So then did you call HR at OhioHealth?  
22 I mean, just walk me through how it happened.

23 A. You mean how did I get it? I don't  
24 remember how it happened. I think I may have gone

1 over there and said, I need to get the HR policy  
2 on impairment.

3 Q. This policy, Exhibit D, was this the  
4 only policy that you requested a copy of?

5 A. It was what I asked for. I mean, this  
6 is all they gave me.

7 Q. So you didn't get an entire book of the  
8 HR policies and procedures?

9 A. No. I just asked them about a Fitness  
10 for Duty and this is what they brought out.

11 Q. Did you ever see this policy, Exhibit  
12 D, at any point during your employment with  
13 Doctors?

14 A. I don't believe so.

15 Q. You think the first time you got it was  
16 when you went over and requested it?

17 A. Correct.

18 Q. Are you claiming in this lawsuit that  
19 Doctors violated Exhibit D, this Fitness for Duty  
20 policy?

21 MR. MEZIBOV: Objection. You can  
22 answer.

23 Q. If you know.

24 A. I believe that's part of my claim, yes.

1 Q. And how do you believe that Doctors  
2 violated the Fitness for Duty policy?

3 A. On page 3 of 6, B, employment issues,  
4 "No decisions regarding employment are made until  
5 all circumstances have been investigated and  
6 management and Human Resources have been  
7 consulted."

8 "Employees whose drug/alcohol test  
9 results are positive..." No. 2, "Employees whose  
10 drug/alcohol test results are positive and whose  
11 circumstances are appropriate for continued  
12 employment may be offered the option of returning  
13 to work once appropriate referral, rehabilitation  
14 and other conditions are met as outlined below."

15 So I believe that's where the breakdown  
16 in the employment policy occurred.

17 Q. Any other way you think they violated  
18 it?

19 A. I think there's numerous things in No.  
20 2. EAP wasn't involved.

21 Q. I guess why do you believe that --  
22 you're still reading from this page 3 of 6?

23 A. Yes.

24 Q. Why do you believe that this policy was

1 implicated in your termination?

2 A. It was implicated?

3 Q. Yes. Why do you believe this policy  
4 even applies?

5 MR. MEZIBOV: There's an objection, but  
6 you can answer.

7 A. I believe it was violated.

8 Q. Why do you believe it applies to your  
9 situation?

10 A. Because the situation was for  
11 diversion. And I think they had a responsibility,  
12 based on what I'm reading there, to investigate  
13 it, have human resources be involved with it. I  
14 don't believe the due diligence occurred on that.

15 Q. Do you know anything about what Doctors  
16 did to investigate the incident when you diverted  
17 in October -- or, I'm sorry, April of '06?

18 A. I don't. Besides asking me my version  
19 of events, that was it.

20 Q. Well, you admitted what happened?

21 A. I admitted what happened, that's  
22 correct.

23 Q. You're also claiming in this case that  
24 Doctors discriminated against you based on your

1 disability?

2 A. Correct.

3 MR. MEZIBOV: Objection.

4 Q. And would that disability be chemical  
5 dependency?

6 A. Yes.

7 Q. Any other disability that you're aware  
8 of?

9 A. That I have?

10 Q. Correct.

11 A. At the time when I went through rehab,  
12 I was diagnosed with a major depressive disorder  
13 and chemical dependency. I would imagine at the  
14 time, that was considered a psychological  
15 impairment as severe as it was.

16 Q. Do you believe that you're being  
17 discriminated against based on your psychological  
18 impairment as well as a chemical dependency?

19 A. Can you repeat the question again?

20 Q. Do you believe that Doctors  
21 discriminated against you based on a psychological  
22 impairment as well as -- well, I guess they're  
23 both psychological.

24 Do you believe that Doctors



1 discriminated against you based on your  
2 psychological impairment in addition to chemical  
3 dependency?

4 A. That would be difficult for me to say.  
5 I would be speculating.

6 Q. Are you aware of any facts to support  
7 your disability discrimination claim in addition  
8 to what you've already testified about today?

9 A. No. I don't know of any additional  
10 facts.

11 MS. DAY: Why don't we take a quick  
12 break. I think we might be done or close to it.

13 (A short recess is taken.)

14 Q. Just a few things. After you received  
15 notice that Doctors was not going to reinstate  
16 you, I guess in March of '07, did you ever have  
17 any conversations with anyone from Doctors  
18 regarding why they weren't going to reinstate you  
19 or the reasons for that decision?

20 A. No.

21 Q. Do you have any knowledge as to how  
22 that decision was made, the decision not to  
23 reinstate you?

24 A. I have seen the affidavit of

1 Dr. Blackwell.

2 Q. Anything other than that?

3 A. No.

4 Q. After you found out that you were not  
5 going to be reinstated, what effect did that have  
6 on you?

7 A. It was devastating.

8 Q. When you say "it was devastating," what  
9 do you mean by that?

10 A. Psychologically, emotionally,  
11 financially. I believed I had made amends for my  
12 previous mistakes, that I had complied with  
13 Dr. Hilliard's recommendation to seek  
14 rehabilitation. And I was hopeful that I would be  
15 able to move forward with my life after these  
16 problems had been addressed, corrective action had  
17 been applied to them.

18 Q. At the time that your reinstatement was  
19 denied in March of '07, where were you with your  
20 psychological issues at that point?

21 MR. MEZIBOV: Objection. Do you mean  
22 medically, psychologically, socially?

23 Q. At that point in March of '07, were you  
24 on medication for depression or for the bipolar

1 diagnosis?

2 A. I was no longer on the bipolar medicine  
3 as it was a diagnosis made early in the remission  
4 process. And most of the doctors agree that you  
5 couldn't place a diagnosis on an Axis I diagnosis  
6 early on in recovery. So it was lifted later by  
7 my psychiatrist to depression. I don't remember  
8 if I was on medication at that time. More than  
9 likely I was.

10 Q. In March of '07, do you recall what  
11 medication you were on?

12 A. I think they were trying different  
13 ones. I think at the time, it was Celexa. But I  
14 couldn't tolerate it all that well, so I may have  
15 been on it for a couple weeks and then they took  
16 me off. C-E-L-E-X-A.

17 Q. When did you stop taking  
18 antidepressants?

19 A. Well, I had stopped for a period of  
20 time at the end of '07 to -- towards the end of  
21 '07 and most of '08. And then recently I just  
22 went back on. As I said, I was feeling tired,  
23 some lethargy, and my primary care physician  
24 started me back on Effexor.

1 Q. Has there been any time since March of  
2 '07 that your depression or emotional issues have  
3 prevented you from working?

4 A. Since what date?

5 Q. March of '07.

6 A. No.

7 Q. Did you seek counseling or other mental  
8 health care treatment as a result of Doctors'  
9 decision not to reinstate you?

10 A. I was already seeing a psychiatrist in  
11 the state. So, no, I don't believe that I had to  
12 seek additional psychiatry resources. But we did  
13 discuss the termination and how it affected me.

14 Q. And what psychiatrist was that?

15 A. Dr. Kevin Ware.

16 Q. Did you need to increase the frequency  
17 of your sessions with him as a result of the  
18 decision not to reinstate you?

19 A. No. I mean, he's medical management,  
20 so he's not psychological management. He would be  
21 adjusting your dose until you have an appropriate  
22 effect.

23 I believe at the time I was seeing a  
24 Rich Petruska on a weekly basis, who was a

1 psychologist that the Missouri Medical Board had  
2 recommended and I was seeing here. So we were  
3 seeing each other on a frequent basis and I was  
4 talking to him about my issues.

5 Q. What was his name again?

6 A. Rich Petruska, P-E-T-R-U-S-K-A.

7 Q. Did you have to increase your sessions  
8 with Rich Petruska as a result of --

9 A. No. We were okay with once a week.  
10 And I found other avenues to try and cope,  
11 exercise, prayer, meetings.

12 Q. Are you still attending meetings?

13 A. I do.

14 Q. Which meetings do you attend?

15 A. Well, it just depends. I do Columbus  
16 area meetings for the most part.

17 Q. Do you do AA?

18 A. Yes.

19 Q. And what else?

20 A. Just AA. Well, I take that back.  
21 There's aftercare which I'm required to go to on  
22 the weekends. That's with Parkside.

23 Q. Have you been able to maintain sobriety  
24 since July of '06?

1 A. Absolutely.

2 Q. Does that include alcohol?

3 A. Absolutely. Everything. Anything that  
4 I've had has been prescribed through my physician.

5 MS. DAY: Okay. I don't have any  
6 further questions. I appreciate your time today.  
7 We reserve the right to inquire further should  
8 that become necessary based on discovery that is  
9 produced. Other than that --

10 MR. MEZIBOV: Let me just ask a couple  
11 questions.

12 - - - - -

13 DIRECT EXAMINATION

14 BY MR. MEZIBOV:

15 Q. Dr. Hall, you mentioned a few moments  
16 ago in response to Ms. Day's questions that you  
17 were responding to I think the terms was a  
18 recommendation made by Dr. Hilliard that you seek  
19 and complete a rehabilitation program?

20 A. Correct.

21 Q. Could you tell us the circumstances  
22 surrounding that? I used the term  
23 "recommendation," but describe for us how that  
24 came about.

1           A.           When I went in front of the Medical  
2           Education Committee, and I believe it was May of  
3           '06 or late April, I believe their decision was  
4           sent out in the mail around May, at the Graduate  
5           Medical Education Committee, I had suggested  
6           rehabilitation. I didn't specifically say drug  
7           and alcohol rehabilitation, but I felt there was  
8           some issue that needed to be addressed. Something  
9           was undiagnosed at the time that needed to be  
10          addressed.

11                       So I said, I'm seeking rehabilitation  
12          action for what is going on. I need to be  
13          evaluated.

14                       They had mentioned earlier in my  
15          third-year contract that they wanted me to have a  
16          psychological evaluation or psychiatric  
17          evaluation, and I felt for sure that something was  
18          amiss and needed to be evaluated, so I had  
19          mentioned that to them, but they decided against  
20          it.

21                       However, at the end of the session,  
22          Dr. Hilliard approached me and said that he wished  
23          me the best and that he would like -- he would  
24          recommend me if I would go do a rehab program. So

1       pursuant to his recommendations, a few months  
2       later I did. And then -- and, again, in support  
3       of that --

4       Q.           Let me stop you there. There's been  
5       some questions about and testimony concerning  
6       Exhibit D, which is attached to the complaint.

7               When did you first become aware of the  
8       existence of Exhibit D?

9       A.           As I said earlier, I'm not sure of the  
10      timeline, but sometime after the termination.

11      Q.           And what did you do with Exhibit D or  
12      what action did you take as a result of seeing  
13      Exhibit D?

14      A.           I filed the breach of contract.

15      Q.           Let me ask it another way: From your  
16      perspective, what's the significance of Exhibit D  
17      to the lawsuit that you've brought?

18      A.           The significance is that following my  
19      termination and learning knowledge of how others  
20      have been treated, this is what I believe is part  
21      and parcel of my terms of employment in my  
22      contract, that these protections would be afforded  
23      me as they have been to other people.

24      Q.           When you say "other people," what's



1       your basis for that statement?

2       A.               Since termination I have through  
3       rehabilitation discovered numerous people who have  
4       been through OhioHealth who had this protection  
5       afforded to them.

6       Q.               One other area of question. Ms. Day  
7       asked you about your disability discrimination  
8       claim. And I'm directing you to page 5 of the  
9       amended complaint, paragraph 26 in which there's a  
10      statement about disability discrimination. And  
11      the statement is made that, the actions of  
12      Defendants violated Plaintiff's rights as secured  
13      by the Americans with Disabilities Act to be free  
14      from discrimination on the basis of disability.

15                    It goes on to say "or the history or  
16      perception thereof, in opportunities for  
17      employment."

18                    What's your understanding of the nature  
19      of your discrimination claim as it relates to a  
20      perception of a disability?

21      A.               I believe they regarded me as disabled  
22      from the restriction on the license showing that  
23      there's basically -- and from the statements made  
24      from various addictionologists that I shouldn't

1 have easy access to narcotics, that there's a  
2 chemical dependency issue, they regarded me as  
3 chemically dependent, and thus the disability.

4 MR. MEZIBOV: I don't have any other  
5 questions.

6 - - - - -

7 RECROSS-EXAMINATION

8 BY MS. DAY:

9 Q. I guess I just have one in follow up.  
10 You never were subjected to any drug or alcohol  
11 testing in connection with your termination at the  
12 time you were terminated, correct?

13 A. No.

14 Q. I'm correct?

15 A. Right.

16 Q. That was a really horrible way to say  
17 it, but I know how that comes out on the  
18 transcript sometimes.

19 So you're not claiming that you were  
20 terminated based on the results of a drug test?

21 A. Correct.

22 MS. DAY: I don't have any more  
23 questions.

24 MR. MEZIBOV: That's it. And we'll

1       take signature if it's ordered.

2                   MS. DAY:   Yes, I need it.

3                               - - - - -

4                   Thereupon, the foregoing proceedings  
5                   concluded at 5:05 p.m.

6                               - - - - -

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1 State of Ohio : C E R T I F I C A T E

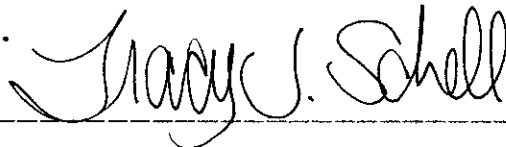
2 County of Franklin: SS

3 I, Tracy J. Schell, a Notary Public in and for  
4 the State of Ohio, certify that Adam P. Hall, D.O.,  
5 was by me duly sworn to testify to the whole truth  
6 in the cause aforesaid; testimony then given was  
7 reduced to stenotype in the presence of said  
8 witness, afterwards transcribed by me; the  
9 foregoing is a true record of the testimony so  
10 given; and this deposition was taken at the time  
11 and place specified on the title page.

12 Pursuant to Rule 30(e) of the Fed. R. Civ. P.,  
13 the witness and/or the parties have not waived  
14 review of the deposition transcript.

15 I certify I am not a relative, employee,  
16 attorney or counsel of any of the parties hereto,  
17 and further I am not a relative or employee of any  
18 attorney or counsel employed by the parties hereto,  
19 or financially interested in the action.

20 IN WITNESS WHEREOF, I have hereunto set my hand  
21 and affixed my seal of office at Columbus, Ohio, on  
22 May 29, 2009.

23 

24 Tracy J. Schell, Notary Public - State of Ohio  
My commission expires November 5, 2013.

## Witness Errata and Signature Sheet

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Ref: TJ1684AH

Correction or Change Reason Code

1 - Misspelling 2 - Word Omitted

3 - Wrong Word      4 - Clarification

5 - Other Correction (Please explain)

Sheet of

Page/Line

Correction, Addition, or Change

Reason Code

199/21

Based on what Mark

194/23

and I believe the federal protection

194124

Applied there

10 | 9

43235

1

2016-18

The case had a 41A dismissal as a voluntary dismissal.

3,4

10/20

dismissed = prejudice

21

I, Adam P. Hall, D.O., have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date \_\_\_\_\_

6/19/09

Signature

The witness has failed to sign his deposition within the time allowed.

Date \_\_\_\_\_

Signature